
Friends of the ABC

Submission

to the

Convergence Review Committee

responding to

the Committee's Interim Report

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A. Friends of the ABC

Friends of the ABC (FABC) is the major community body representing the public's interest in its national independent broadcaster. It is a politically independent organisation whose aim is the maintenance of the Australian Broadcasting Corporation (ABC) as a healthy, independent and comprehensive national public broadcaster.

FABC has no formal national structure. It comprises autonomous Friends of the ABC organisations in each Australian state and territory working together on national campaigns.

FABC is a loyal but oftentimes critical friend of the ABC and is not always in agreement with its activities.

B. Preface

Friends of the ABC thanks the Committee for the opportunity to comment on its interim report.

FABC apologises for not submitting in earlier stages to the review process. We request that the Committee be mindful of the fact that the case for the public interest is at a serious disadvantage from the outset in inquiries and review processes that deal with matters which affect on parties with strong financial interests. Community organisations that act for the public good and receive no government funding, such as Friends of the ABC, are not always aware of, and frequently do not have the time to make submissions to, important public reviews and inquiries which are relevant to them. When they do, the extremely limited time and resources they have available to research and prepare submissions is no match for the well-resourced bodies that represent parties with strong financial interests.

C. Introduction

It is in the overwhelming public interest that independent public broadcasting thrives in Australia.

An independent and comprehensive national public broadcaster that is well-resourced to play a prominent role in the life of the nation is integral to the maintenance of our culture. Furthermore, in a country that has a dangerously high concentration of media ownership, the Australian Broadcasting Corporation (ABC) is critical to the quality and the diversity of media, and to our democracy.

Yet, while the importance of strong public broadcasting grows as commercial media diversity shrinks, so does the threat to its long-term viability.

D. FABC response to Interim Report recommendations

Chapter 10. Public Broadcasting recommendations

FABC is deeply disturbed at two recommendations in the interim report concerning the ABC. Both recommendations that deal with the ABC reflect vested financial interests at the expense of the public interest. If implemented, they would undermine the ABC's role as an independent and comprehensive public broadcaster.

The ABC Charter

FABC strongly opposes the interim report recommendation to clarify the ABC's charter with regard to its digital expansion to "give commercial operators certainty about the boundaries of public broadcaster activities".

Despite the charter being "decades old" (as the interim report points out), it is precisely because the charter is a broad and encompassing document that it has served public well over many decades and continues to do so.

The ABC's charter has allowed it to deliver the breadth of programming and services required of a comprehensive public broadcaster and to remain relevant as technology and community interests have changed. The ABC established a youth radio station, for example, and expanded its services to online, despite youth not being specified in the Charter, and online media not envisaged when it was written.

The existing charter has enabled the country's national broadcaster to adapt and remain relevant as technology has changed. It has allowed the ABC to meet public expectations to access content in new time-free ways like online and introduced the community to exciting new services. More than that, the ABC has led the way. It has been at the forefront of innovation and content provision online, and in introducing new digital media services – most recently, radio.

Any attempts to include more specificity in the ABC's charter will undermine the ABC's legislative responsibility to be "innovative" in its provision of services. With changes in technology occurring so rapidly, specificity in its charter risks marginalising the public broadcaster. Its activities in the future may be restricted in ways that cannot be anticipated now.

The pressure to curtail the ABC's activities is coming from commercial media operators which view public broadcasters as competitors for their audiences. It has grown as a result of several factors: the interest of Australia's two dominant print media corporations to expand in broadcasting (News Ltd to grow its pay TV audiences and Fairfax to extend into radio), the interest of print media companies to move online to replace the declining advertising income of newspapers, and a reduction in advertising revenue that resulted from the global economic downturn.

However, not only is the failure of the business model that supported commercial media not a reason to curtail the ABC, it highlights the importance of ensuring that public broadcasting is able to flourish. And the overwhelming public interest for the country's national broadcaster to thrive must outweigh the interests of commercial media owners to establish boundaries for the ABC in order to maximise their profit.

See Appendix A. 'ABC's Importance to Australian Life'

Imposition of an Australian content quota

FABC strongly opposes the interim report recommendation for a “55% Australian content quota consistent with the obligation of commercial FTA television broadcasters” to be applied to ABC1. Again, this recommendation supports vested financial interests at the expense of the public interest.

On this occasion it is the interests of the private production sector, represented by the Screen Producers Association of Australia (SPAA). The private production sector has succeeded in having all ABC television local drama and almost all television documentary programming outsourced to it, along with considerable amounts of funding – the result of inadequate ABC funding and a government support scheme for the private production sector that results in it being more cost-effective for the ABC to outsource production to the private sector in some television program genres.

Last year, at a Senate Committee inquiry into ABC program changes, SPAA argued to have the ABC shut down local programming in some smaller states so that more ABC resources could be directed to its members. Now the private production sector wants quotas imposed on the public broadcaster to ensure that on occasions when the ABC is under-funded to fulfil its Charter responsibilities, the ABC will be forced to support them above all other ABC program areas and services.

FABC opposes the introduction of any quotas for Australian content on the ABC for the following reasons:

1. There has been no evidence produced to indicate that the ABC’s failure to produce high levels of any important area of programming, such as local television drama or documentary programs, is the result of a lack of will on the part of the ABC. On the contrary, with more funds, in the past the ABC’s level of production in these areas was greater than that of the commercial networks.

Although the ABC remains seriously under-funded, with an increase in funding delivered by the present government after many years in which ABC funding had been eroded and cut, the amount of local content on ABC television has again commenced to rise. In 2011, 55% of content broadcast on ABC1 was Australian-made, more than half of the Australian-made content on ABC1 from 6am to midnight was first-release, 47.8% of Australian-made content broadcast during prime-time on ABC1 was first release.¹ First-run Australian drama content on ABC TV was 37 hours.²

2. The introduction of a quota would distort the operations of the ABC, which has responsibilities in other areas too, for example news and current affairs, and radio. On occasions when the ABC received inadequate funding, a quota which protects one ABC programming area may result in disproportionate cuts elsewhere and other important areas of the ABC’s Charter being neglected. It may also result in resources being unfairly drawn away from some networks, eg., from radio in favour of television.

At a time of inadequate funding, a quota that applied to ABC1 could, for example, result in the ABC being forced to drop its level of Australian content on ABC3, the children’s channel, on which it is important there are high levels of Australian content.

3. The ABC is the national broadcaster, with a stated and unequivocal responsibility to reflect and promote our local culture. Its production and broadcasting of Australian programs across all genres should be well in excess of the levels of commercial broadcasters. Yet, with the current trend of governments providing the ABC with as little funding as possible, a minimum quota would be in danger of becoming the maximum in reality.
4. Quotas do not guarantee quality. Commercial broadcasters produce serial ‘soapies’ and other programs of dubious quality to help meet their Australian drama quotas. If the ABC television's present light-weight Australian programming is any indication, a quota with insufficient funds would result in similar low quality programming which is cheap to produce.

¹ ABC Annual Report 2011 pp. 49-50

² ABC Annual Report 2011 p.111

5. Most importantly, in spirit and at law the ABC is meant to be independent. Regardless of what the area of programming is and its merit, the introduction of a quota for a particular area/ABC service undermines the ABC's independence, provides a platform for undesirable government interference, and sets a dangerous precedent.

The ABC Chairman and Board which operate at arms length from the government, are appointed for their expertise in overseeing a public broadcaster. It is the responsibility of the ABC to determine how it will best allocate its limited funds to meet all of its Charter commitments, including high levels of Australian content.

FABC works hard to dissuade governments from interfering in the ABC's independence; for example, influencing programming by targeting funding to particular areas. The introduction of a quota for local programming on ABC1 will provide governments with an excuse to target funding to the quota area at the expense of others program areas and services. It would suit some governments if, for example, the ABC broadcast less current affairs, or science programming because it informs the community on the topic of global warming.

Furthermore, the introduction of a quota for one ABC programming area, would set a dangerous precedent. It would encourage other sectional interests – be they commercial or political – to lobby politicians for quotas to meet their interests. There is a risk that ABC programming would become based on the level of power that vested interests can exert, rather than sound programming decisions and the public good.

6. A quota is not needed to ensure levels of Australian content that are akin to commercial broadcasters. Unlike commercial broadcasters, the ABC is a public broadcaster, and as such is subject to strong systems of accountability.

The ABC is accountable to the Australian Parliament through a range of mechanisms. It is required to submit its accounts for audit, table its Annual Report in Parliament, and to notify the Australian Communications and Media Authority of its Code of Practice. As well, it must appear before Parliamentary Committees, respond to enquiries and complaints from Parliamentarians and the general public, and maintain a rigorous complaints procedure.

The ultimate form of censure hanging over its head. unfortunately, is the capacity of governments to cut its funding.

FABC proposal

The operation of Australia's mainstream media has a significant influence on every important Australian social and political issue and our culture.

The already low number of sources of serious news and current affairs and the lack of quality local content in our media damages the wellbeing of our nation and its citizens. If further media diversity is lost or the ABC allowed to decline as an independent and comprehensive national public broadcaster, the situation may become almost impossible to reverse.

Friends of the ABC submits the Convergence Review Committee recommend that:

- maintenance of the ABC as a strong independent and comprehensive national public broadcaster be assured by the Parliament establishing a mechanism to ensure the ABC is well funded to produce and broadcast high quality programs that fulfil all of its Charter responsibilities to a high level; and
- SBS be maintained as the niche, independent multicultural public broadcaster it was originally envisaged to be; and that it be well-funded so that it no longer depends on advertising.

Chapter 6: Diversity recommendations

Opposition to abolition of cross-media ownership laws

Friends of the ABC is strongly opposed to the Committee's recommendation that existing cross-media ownership laws be scrapped in favour of a public interest test to be administered by a new regulator for the following reasons:

1. While a public interest test may list admirable criteria, the interpretation of the criteria on a case by case basis would rest with the head of the regulatory body at the time. It is unknown what would be the outcome in each instance.
2. The public is entitled to know what minimum level of media diversity will be protected.
3. In any instances that a regulator might consider the public interest, there would be an overwhelming imbalance in favour of parties with vested financial interests who have huge resources to present their case to the regulator. There is no body in the community whose interest is the Australian media's ownership and operation in the public interest which has sufficient resources to present well-researched arguments for public interest.
4. In the face of the influence that powerful vested commercial interests have with governments of some political persuasions, and the extraordinary pressure they have already demonstrated they can exert on all governments, no government or regulators (which, after all, are appointed and funded by government) can be relied upon alone to make decisions in the public interest in each instance of media ownership change.

In a country which already has a dangerously high concentration of media ownership, no greater ownership concentration should be risked.

The growth of concentration in commercial media ownership also poses a serious threat to the survival of the ABC – not only an important cultural institution in its own right, but important for media diversity. This is the case if the capacity of media owners who have, or come to hold, interests in the same type of media delivery platforms operated by the ABC, to influence government is enhanced.

See *Appendix B. 'The ABC at Risk from Commercial Media'* for an explanation of why a high concentration of media ownership and media ownership across different platforms is putting the ABC at risk.)

Australia has no protection of media diversity through free speech provisions in a bill of rights. The public interest to limit the ownership of any single proprietor is best achieved by clear, explicit legislation. The need for the support of both houses of parliament to change legislation is also more likely to result in matters of such importance being brought to public attention and debate.

Public Interest Test

While FABC does not believe a public interest test should replace legislated minimum requirements, and the interim report did not clearly specify what criteria the Committee believes should be included in a public interest test, FABC supports the concept of a public interest test that would increase media diversity.

If media ownership was accessible to more people and Australia had a healthy level of mainstream media ownership diversity, it would matter less who owned any media outlet. However, Australian media ownership is accessible to only a tiny number of very wealthy people. In view of the influence on public opinion (either directly or through the selection of an editor) and in turn on elected governments that a highly concentrated media market affords to media owners, FABC believes that a public interest test should include criteria that excludes from ownership of major media outlets any person that it would be contrary to public interest to have own a major media company.

Media Diversity

On reading the interim report with regard to diversity, on some important matters it was unclear to Friends of the ABC what the committee expects its recommendations to achieve. These are:

1. the extent of media diversity that should be achieved, and maximum concentration of media ownership that should be allowed
2. the extent and types of media that any single owner should be allowed to own in a single geographical market.

If the Committee already accepts that media ownership diversity is a prerequisite for more sources of information and a greater breadth of opinion, and that the need for traditional media diversity is not diminished by new media, it is not necessary to read *Appendix C. 'Media Content is Influenced by Ownership'* and *D. 'Need for Media Diversity not Diminished by New Media'*. However if those are not the views of the Committee, we would request they consider Appendix C. and D.

3. the extent to which achieving diversity of media ownership that is in the public interest is the goal.

The media's operations have a huge influence in modern societies – informing/failing to inform the public on important matters, enabling/inhibiting free speech, influencing opinion, reflecting/failing to reflect and maintain our local culture, and scrutinising governments and other powerful bodies. Such is the influence of some media owners that they can dictate terms to elected governments.

Accordingly, FABC believes the aim of the Committee's recommendations that deal with diversity must be to achieve the extent of quality content and diversity of opinion that is needed to enrich the life of the nation and for democracy to thrive. When it comes to the media, the public's interest as citizens, not merely consumers of media, should be paramount.

APPENDICES

- A. ABC's Importance to Australian Life**
- B. The ABC at Risk from Commercial Media**
- C. Media Content is Influenced by Ownership**
- D. Need for Media Diversity not Diminished by New Media**