
INFORMATION NOTE

Public Service Broadcasting in Australia

1. Definition of public service broadcasting

1.1 In Australia, the *Broadcasting Services Act 1992* provides a definition of public service broadcasting (PSB) based on the nature of the national broadcasting services provided by the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service Corporation (SBS) in accordance with Section 6 of their respective enabling legislation. ABC and SBS are the national public service broadcasters in Australia.

1.2 Section 6 of the *Australian Broadcasting Corporation Act 1983 (ABC Act)* sets out the Charter of ABC, which is to:

- (a) provide within Australia innovative and comprehensive broadcasting services of a high standard;
- (b) broadcast programmes that contribute to a sense of national identity, inform and entertain, and reflect the cultural diversity of the Australian community;
- (c) broadcast programmes of an educational nature;
- (d) encourage and promote the musical, dramatic and other performing arts in Australia; and
- (e) transmit to countries outside Australia programmes of news, current affairs, entertainment and cultural enrichment that will (i) encourage awareness of Australia and an international understanding of Australian attitudes on world affairs, and (ii) enable Australian citizens living or travelling outside Australia to obtain information about Australian affairs and Australian attitudes on world affairs.

1.3 Section 6 of the *Special Broadcasting Service Act 1991 (SBS Act)* sets out the principal function of SBS, which is to provide multi-lingual and multi-cultural radio and television services that inform, educate and entertain all Australians and, in doing so, reflect Australia's multi-cultural society. In performing its principal function, SBS must:

- (a) contribute to meeting the communications needs of Australia's multi-cultural society;

- (b) increase awareness of the contribution of a diversity of cultures to the continuing development of the Australian society;
- (c) promote understanding and acceptance of the cultural, linguistic and ethnic diversity of the Australian people;
- (d) contribute to the retention and continuing development of language and other cultural skills;
- (e) as far as practicable, inform, educate and entertain Australians in their preferred languages;
- (f) make use of Australia's diverse creative resources;
- (g) contribute to the overall diversity of Australian radio and television services, particularly taking into account the contribution of ABC and the community broadcasting sector; and
- (h) contribute to extending the range of Australian radio and television services, and reflect the changing nature of the Australian society, by presenting many points of view and using innovative forms of expression.

2. Historical development of public service broadcasting

2.1 Radio broadcasting was introduced in Australia in 1923, when the first licensed radio stations commenced broadcasting in Sydney under a "sealed set" scheme. Under this scheme, radio sets were fixed to a particular frequency so as to permit reception from one broadcasting station only. Listeners paid a subscription fee to the licensee of the station to which their radio sets were tuned.

2.2 The "sealed set" scheme was unpopular among listeners as they preferred the flexibility of scanning the frequency spectrum rather than having their radio sets locked onto a single station. In July 1924, the Australian government succumbed to public pressure and replaced the "sealed set" scheme with a system of Classes "A" and "B" stations. Class "A" stations were financed primarily by licence fees, whereas Class "B" stations were funded mainly by advertising.

2.3 In 1928, the Australian government acquired and combined all Class "A" stations by purchasing their transmitters and studio equipment. It then contracted a consortium to produce programmes for its first Australia-wide public radio broadcasting service. In 1932, the Australian government discontinued the contract and set up the Australian Broadcasting Commission as the national public service broadcaster with a radio network of 12 stations. The Commission had gradually expanded since then and began television broadcasting in 1956.

2.4 In 1975, the Australian government established "ethnic" broadcasting through operating two experimental stations in Sydney and Melbourne to broadcast information to ethnic communities about Medicare, a public health insurance system. In 1978, these two ethnic radio stations were taken over by SBS, a body corporate established by the Australian government to serve as another national public service broadcaster with the function of providing multi-lingual and multi-cultural radio programmes. SBS expanded into television broadcasting in 1980.

2.5 In the late 1970s, the Australian Broadcasting Commission was subject to criticism concerning its alleged inefficiency and mismanagement. In 1983, Parliament passed the *ABC Act* to abolish the Australian Broadcasting Commission and replace it with ABC, a new body corporate with more flexibility in the day-to-day operation than its predecessor.

3. Market players in Australia's broadcasting industry

3.1 In addition to ABC and SBS, there are 257 commercial radio stations in Australia, of which 217 operate in regional markets. The remaining 40 commercial radio stations serve the capital cities, including the metropolitan areas of Sydney, Melbourne, Brisbane, Adelaide and Perth. In the television market, three major commercial capital city networks and several regional commercial networks are on air in Australia.

3.2 In 2004-05, the average audience shares for ABC's television and radio services were 17.2% and 20.4% respectively in the five mainland capital cities. The corresponding figure for SBS's television services in 2004 was 5.1%.¹

4. Australian Broadcasting Corporation

Background

4.1 ABC was established in 1983 under the *ABC Act* as a national public service broadcaster in Australia. ABC is financed mainly by government appropriations approved by Parliament. Nevertheless, ABC, as a body corporate, operates at arm's length from the federal government in its day-to-day operation.

Public service mandate

4.2 Section 6 of the *ABC Act* sets out the public service mandate of ABC in terms of its functions and programming requirements as described in paragraph 1.2.

¹ SBS did not publish similar audience share figure for its radio services in the 2004-05 annual report.

Mission

4.3 ABC's mission is to uphold its Charter through distinctive programmes and services that inform, educate and entertain.

Services

4.4 ABC delivers its programmes to diverse Australian communities through the following two major platforms:

Television

4.5 ABC operates the following television services:

- (a) a national analogue television service (ABC Television) and digital simulcast of the analogue signal;
- (b) ABC2 – a digital television service available both free-to-air and on subscription platforms; and
- (c) ABC Asia Pacific – an international television service to rebroadcast ABC's programmes to the Asia-Pacific region.

Radio

4.6 The radio services operated by ABC comprise:

- (a) four national radio networks;
- (b) a network of metropolitan and regional radio stations throughout Australia;
- (c) three Internet music-based radio services; and
- (d) Radio Australia – a short-wave international radio service to rebroadcast ABC's programmes to the Asia-Pacific region.

4.7 ABC also operates ABC Enterprises as its commercial arm to generate profits for re-investment in its programme production. ABC Enterprises operates a wide range of commercial activities, including selling and distributing programmes and content, developing and retailing of consumer products relating to ABC programming, and leasing ABC's spare production resources to the general public and industry alike.

Programme diversity

4.8 As Australia's national public service broadcaster, ABC is mandated under the *ABC Act* to provide comprehensive broadcasting services and achieve a balance between programmes of wide appeal and more specialized programmes. In 2004-05, ABC's television services provided 16 different genres of programming for its viewers, namely arts and culture, comedy, current affairs, news, documentary, drama, education, entertainment, factual, indigenous, movies, natural history and environment, religion and ethics, science and technology, sport and children's shows.

4.9 Section 4 of the *Parliament Proceedings Broadcasting Act* further requires ABC to broadcast the proceedings of Parliament, including joint sittings of both Houses of Parliament.

4.10 In addition, ABC produces regional programmes featuring regional and rural issues, local sports and community events. It has received government funding of A\$54.4 million (HK\$322.6 million)² to provide regional and local programmes across all media between 2005-06 and 2007-08.

4.11 ABC also provides closed captioning and descriptive video programming for disabled people to facilitate their access to its programmes. For example, television programmes broadcast between 6 pm and 10:30 pm and news, current affairs and information programmes broadcast at any time are captioned in accordance with the *Broadcasting Services Act 1992*. ABC also provides text format on its television services in audio as well, subject to availability of resources and considerations of creativity, editorial integrity and immediacy.

Production

4.12 Section 27 of the *ABC Act* requires ABC to develop, maintain and broadcast daily an independent service of news and information. The *ABC Act* also sets out other requirements on content genres, under which ABC should:

- (a) broadcast programmes of an educational nature;
- (b) transmit programmes of news, current affairs, entertainment and cultural enrichment overseas; and
- (c) broadcast programmes that promote musical, dramatic and other performing arts, reflect cultural diversity, and take account of the multi-cultural character of the Australian community.

² Based on the average exchange rate of HK\$5.93 per Australian dollar in 2005.

4.13 In addition to creating in-house programmes, ABC works closely with the independent production sector to develop and produce television programmes, including drama, comedy and documentary programmes produced either by commissioning or through co-production agreements. In 2004-05, 32 of the 46 half-hour Australian documentaries screened on ABC were commissioned from the independent production sector.

4.14 ABC sets out guidelines in its in-house ethics guide – the ABC Editorial Policies – to govern programme co-production, programme procurement and other special programme arrangements with outside parties. In particular, ABC will only accept those arrangements that do not infringe or appear to infringe its integrity and editorial independence.

Regulatory framework

Governing legislation

Australian Broadcasting Corporation Act 1983

4.15 The *ABC Act* defines the role, functions, duties and powers of ABC, as well as setting out its organization structure, public service mandate, independence and accountability.

Broadcasting Services Act 1992

4.16 Broadcasting services in Australia are regulated primarily through the *Broadcasting Services Act 1992*. The Act defines various categories of broadcasting services and sets out their respective regulatory regimes, as well as establishing the Australian Communications and Media Authority (ACMA) as the regulator for the broadcasting industry in Australia.

Regulatory authorities

Australian Communications and Media Authority

4.17 ACMA is responsible for the regulation of broadcasting, radio communications, telecommunications and online content in Australia. It was formed on 1 July 2005 by the merger of two former government regulatory authorities – the Australian Communications Authority and the Australian Broadcasting Authority.

4.18 ACMA is an independent government authority, though administratively falls under the portfolio of the Department of Communications, Information Technology and the Arts (DCITA). ACMA is run by three full-time members (including the Chair and Deputy Chair) and four part-time members, all of whom are appointed by the Minister for Communications, Information Technology and the Arts.

4.19 ACMA's main responsibilities include:

- (a) promoting self-regulation and competition in the telecommunications industry, while protecting consumers and other users;
- (b) fostering an environment in which the electronic media respects community standards and responds to audience and user needs;
- (c) managing access to the radio frequency spectrum, including the broadcasting services bands; and
- (d) representing Australia's communications and broadcasting interests internationally.

Department of Communications, Information Technology and the Arts

4.20 DCITA provides strategic advice and professional support to the Australian government on a wide range of significant and rapidly changing policy areas, including arts and culture, broadcasting and online regulation, indigenous programmes, information and communications technology, information economy, intellectual property, post, sport and telecommunications.

4.21 On broadcasting and online regulation, DCITA is responsible for providing policies and advice and contributing to the development of legislation in relation to television, radio, online content and gambling. As such, it works closely with its portfolio bodies, including ABC, SBS and ACMA, on the development of the broadcasting and online regulatory framework. DCITA also oversees the development of digital television, online gambling regulation and the anti-siphoning regime³ applicable to the acquisition of sporting rights.

³ The objective of the anti-siphoning scheme is to ensure that certain events are available to the whole viewing public by preventing pay television licensees from acquiring exclusive rights to the events.

Editorial independence

4.22 The *ABC Act* contains a number of provisions that ensure the editorial independence of ABC. Under Section 78 of the *ABC Act*, the Minister for Communications, Information Technology and the Arts is empowered to direct ABC to broadcast certain matters if he/she is of the opinion that this is in the national interest. However, if the Minister does so, he/she must provide a statement containing particulars of and reasons for the direction to be laid before Parliament within seven days after the direction has been given. Apart from broadcasting of matters in the national interest or as provided for in other legislation, ABC is not subject to any direction by the Australian government.

4.23 The Board of Directors of ABC, the body responsible for ABC's strategic policy making, is required under Section 8 of the *ABC Act* to maintain the independence and integrity of the corporation. In addition, Section 31 of the *ABC Act* prohibits ABC from accepting paid advertising or similar payments, in order to ensure that ABC will not be subject to commercial imperatives in its choices of the range or content of materials for broadcast.

4.24 ABC has developed the ABC Editorial Policies to enable programme producers and the public to understand the editorial and ethical principles that are fundamental to ABC. The ABC Editorial Policies also serve as a frame of reference as well as, on occasions, a check list of considerations aiming at helping programme producers to meet the expectations of their audiences. For example, according to Section 6.3.1 of the ABC Editorial Policies, "*[t]he Board requires ABC editorial staff to observe the highest standards and not allow their professional judgment to be influenced by pressures from political, commercial or other sectional interests or by their own personal views.*" Furthermore, ABC will not accept public funding earmarked for programmes or materials on conditions which infringe or appear to infringe the editorial independence or integrity of ABC. Nor will ABC accept funds for programmes which are or appear to be party political.⁴

Sources of funding

4.25 ABC has been funded by government appropriations for most of its existence.⁵ Prior to 1988–89, funding was provided on an annual basis. Since then, government appropriations have been provided under a triennial funding agreement, under which ABC is guaranteed basic government funding for each of the three years covered by the agreement, with the basic level indexed each year to allow for inflation. In addition to government appropriations, ABC also generates revenue from other sources, including the commercial activities operated by the ABC Enterprises.

⁴ See Section 14.3 of the ABC Editorial Policies.

⁵ During the early years of the Australian Broadcasting Commission, i.e. the predecessor of ABC, the Commission was financed entirely by revenue received from radio listeners in the form of licence fees. In 1949, the Australian government decided that the Australian Broadcasting Commission should be funded by government appropriations.

4.26 In 2004-05, ABC derived 77% of its funding from government appropriations and another 15% from sale of goods and services, including merchandising, programme sales, royalties and technology sales. The remaining 8% of its funding came from other sources such as interest income, sale of assets and donations.

Corporate governance

4.27 The *ABC Act* governs the composition and functions of ABC's Board of Directors. The ABC Board consists of the Managing Director, the staff-elected Director and not fewer than five nor more than seven other non-executive Directors.

4.28 The non-executive Directors, including the Chairperson and Deputy Chairperson, are appointed by the Governor-General⁶ for renewable five-year terms. The *ABC Act* requires that the non-executive Directors must be experienced in broadcasting, communications or management, possess expertise in financial or technical matters, or have cultural or other interests relevant to the provision of broadcasting services.

4.29 The Managing Director of ABC is appointed by the Board for a period of five years, and is eligible for re-appointment. He/she is responsible for implementing the policies determined by the Board and conducting the day-to-day operation of ABC. The Managing Director also serves as the Editor-in-Chief of the corporation.

4.30 The staff-elected Director is elected among ABC employees and contract staff by a ballot process conducted by the Australian Electoral Commission. A person who has been elected as the staff-elected Director at two successive elections is not eligible for election at the next election of the staff-elected Director. On 24 March 2006, the Minister for Communications, Information Technology and the Arts announced a restructuring plan for the ABC Board. The position of the staff-elected Director will be abolished and legislation to give effect to this change will be introduced as early as possible.

4.31 Section 6 of the *ABC Act* sets out the following duties of the ABC Board:

- (a) ensuring that the functions of ABC are performed efficiently with maximum benefit to the people of Australia;
- (b) maintaining the independence and integrity of ABC;

⁶ The Australian Governor-General is the representative of the Queen of the United Kingdom in Australia.

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- (c) ensuring that the gathering and presentation of news and information is accurate and impartial, according to recognized standards of journalism;
 - (d) ensuring that ABC complies with the relevant legislative and legal requirements; and
 - (e) developing a code of practice relating to programming matters and notifying the code to ACMA.

4.32 The ABC Board has six committees, namely (i) the Audit and Risk Committee, (ii) the Finance Committee, (iii) the ABC Advisory Council Board Committee, (iv) the Editorial Policies Committee, (v) the Board Code of Practice Committee and (vi) the Executive Remuneration Committee.

4.33 The *ABC Act* contains the following provisions governing the remuneration for ABC's Board of Directors:

- (a) "[t]he Managing Director shall be paid by the Corporation such remuneration as is determined by the Remuneration Tribunal⁷; and
- (b) [t]he non-executive Directors shall be paid by the Corporation such remuneration as is determined by the Remuneration Tribunal."

4.34 ABC has put in place a number of initiatives to safeguard its corporate governance, including setting up the ABC Advisory Council, and establishing the ABC Code of Practice and the complaint handling mechanism.

ABC Advisory Council

4.35 The ABC Advisory Council was established in 1983 in accordance with Section 11 of the *ABC Act* to provide advice and feedback to the ABC Board on ABC's programming policies. The Council consists of 12 members selected by the ABC Board from all over Australia to perform the following responsibilities:

- (a) facilitating communication between the community and the ABC Board;

⁷ The Remuneration Tribunal is an independent statutory authority established to determine, report on and provide advice about remuneration for the following posts/offices: (i) federal Parliamentarians, including Ministers and Parliamentary office holders, (ii) judicial and non-judicial offices of federal courts and tribunals, (iii) full-time and part-time holders of various public offices, and (iv) Principal Executive Offices, including ABC and SBS, as defined under Section 3 of the *Remuneration Tribunal Act 1973*.

- (b) acting on its own initiative to provide advice to the ABC Board in relation to ABC's programmes and programming policies;
- (c) providing constructive advice on ABC's programmes and programming issues, in response to requests from the ABC Board and ABC's senior management;
- (d) providing an overview for the ABC Board of community concerns and interests; and
- (e) carrying out community consultation programmes seeking community views on ABC's programming initiatives and policies.

ABC Code of Practice

4.36 Under the *Broadcasting Services Act 1992*, the ABC Board is required to develop a code of practice relating to programming matters and notify the code to ACMA. In the event that ABC has acted contrary to its established Code of Practice, the public can complain to ACMA.

Complaint handling mechanism

4.37 All complaints received by ABC, such as concerns about factual inaccuracy, lack of balance, bias or inappropriate content, are directed to the Audience and Consumer Affairs Unit established within ABC. The unit is independent of ABC's programme areas and responsible for investigating all written complaints about possible breaches of ABC's Editorial Policies, Code of Practice or Charter.

4.38 If a complainant is dissatisfied with a response from the Audience and Consumer Affairs Unit, he/she may request the matter to be reviewed by the Complaints Review Executive who can consider the complaint afresh and report the findings to the ABC Board. The Complaints Review Executive is a senior ABC manager with editorial experience, who is separate from the Audience and Consumer Affairs Unit and ABC's programme areas.

4.39 The ABC Board has also established the Independent Complaints Review Panel to facilitate independent reviews of complaints at no cost to the complainants. The Panel handles cases where the aforementioned normal complaints handling procedures have been completed and the complainants are still dissatisfied with ABC's responses. The ABC Board appoints members to the Panel based on their backgrounds in (i) journalistic ethics and practice, (ii) media operation, (iii) electronic media and programme production, and (iv) complaints handling or other review processes.

Accountability

4.40 As Australia's national public service broadcaster, ABC is subject to the following accountability arrangements with the federal government, Parliament and the public:

Federal government

Australian Communications and Media Authority

4.41 ACMA is empowered under the *Broadcasting Services Act 1992* to hear complaints concerning ABC's contravention of its established Code of Practice. Nevertheless, this arrangement is a procedure of the last resort, coming into play only if a complaint has first been made directly to ABC and the complainant either has not received an answer within 60 days or has, in his/her opinion, received an inadequate response.

4.42 The *ABC Act* also obliges ABC to submit a corporate plan to the Minister for Communications, Information Technology and the Arts. The corporate plan covers specific matters, including objectives for ABC, as well as overall strategies and policies to fulfil ABC's functions and ensure that the ABC Board fulfils its duties. In addition, the corporate plan includes financial and operational performance indicators and targets to be achieved during the planning period.

Department of Communications, Information Technology and the Arts

4.43 Section 8 of the *ABC Act* further stipulates that "*if the Minister [for Communications, Information Technology and the Arts] at any time furnishes to the Board a statement of the policy of the Commonwealth Government on any matter relating to broadcasting, or any matter of administration, that is relevant to the performance of the functions of the Corporation and requests the Board to consider that policy in the performance of its functions, the Board shall ensure that consideration is given to that policy.*"

Australian National Audit Office

4.44 ABC is accountable to the Australian National Audit Office for its operation, corporate governance and other issues. The Australian National Audit Office is established under the *Auditor-General Act 1997* to provide independent reviews of the performance and financial management of public agencies and entities.

Parliament

4.45 ABC is accountable to Parliament through the Minister for Communications, Information Technology and the Arts. It is also subject to close parliamentary scrutiny through the processes established by Parliament. These processes include parliamentary review of ABC's budget⁸, the requirement for tabling of an annual report before Parliament and the examination of ABC's operation by relevant parliamentary committees.

4.46 Section 80 of the *ABC Act* specifies the matters that must be included in ABC's annual report submitted to Parliament. In particular, ABC must cover an assessment of the extent to which its operation has fulfilled its functions and the objectives specified under the corporate plan. ABC is also required to include in the annual report details of any requests from the Minister for Communications, Information Technology and the Arts to consider government policies made under Section 8 of the *ABC Act* and the action, if any, taken by the ABC Board.

Public

4.47 ABC has put in place a multi-tiered complaint handling mechanism to deal with concerns expressed by the public about its programming. The results of the related investigations are published on a quarterly basis. The complaint handling mechanism includes potential investigations by the Independent Complaints Review Panel and a range of remedies at its disposal, including on-air corrections.

Distinctiveness from commercial broadcasters

4.48 As a national public service broadcaster in Australia, ABC takes on a role different from that of commercial broadcasters. In particular, ABC seeks to ensure:

- (a) provision of broadcasting services which are (i) innovative, comprehensive and of a high standard, (ii) inform, entertain and educate, and (iii) provide a balance between programmes of wide appeal and specialized broadcasting programmes;
- (b) contribution to sense of national identity through the broadcasting services provided;

⁸ Each year, ABC is required to prepare a Portfolio Budget Statement to accompany the annual Appropriations Bills submitted to Parliament for approval. The Portfolio Budget Statement has a significant planning and goal-setting function as it contains targets for outcomes and outputs of the organization concerned (ABC in this event), coupled with estimates of the resource needed to produce them.

- (c) competition in good programming, rather than for audience shares;
- (d) universality of access to its programmes; and
- (e) public accountability.

4.49 ABC also differs from commercial broadcasters in terms of the sources of funding. ABC is funded primarily by government appropriations (77% of the total funding in 2004-05), while commercial broadcasters support themselves primarily by advertising revenue.

Reviews of the Australian Broadcasting Corporation

4.50 ABC has been the subject of study in a number of major reports commissioned by the Commonwealth and State Parliaments and the Minister for Communications, Information Technology and the Arts. Most recently, the Minister announced in October 2005 that the ABC Funding Adequacy and Efficiency Review would be conducted. The review aims to assess the adequacy of ABC's current funding to undertake the functions specified in the *ABC Act*, and the efficiency of ABC's use of the government funding.

4.51 Specifically, the ABC Funding Adequacy and Efficiency Review will look at (i) ABC's legislative obligations, (ii) the structure of ABC and its regional activities, (iii) the range of services provided by ABC, (iv) the impact of the changing media and technological environment on ABC, including the impact of digital conversion, (v) the current state of the national and international market in which ABC operates for acquiring and selling programmes, and (vi) the impact of changing industry costs.

5. Special Broadcasting Service Corporation

Background

5.1 SBS was established in 1978 through amendments to the *Broadcasting and Television Act 1942*. The amendments defined the role of SBS as a national public service broadcaster with the function of providing multi-cultural and multi-lingual broadcasting services. In 1991, Parliament passed the *SBS Act* to establish SBS as a body corporate with programming and operational independence from the Australian government. SBS is financed primarily by government appropriations, supplemented by revenues from advertising, sponsorship and other sources such as interest/dividend income, sales of programmes and merchandising.

Public service mandate

5.2 Section 6 of the *SBS Act* sets out the public service mandate of SBS in terms of its functions and programming requirements as portrayed in paragraph 1.3.

Mission

5.3 SBS's mission is to contribute to a more cohesive, equitable and harmonious Australia through its radio and television services.

Services

Television

5.4 SBS provides a national analogue television service and digital simulcast of the analogue signal. SBS also operates two digital channels: the World News Channel and SBS Essential (an electronic programme guide with news headlines, weather and programme information).

Radio

5.5 SBS operates a radio service – SBS Radio – broadcast on AM and FM frequencies in Sydney and Melbourne as well as on a national network reaching all major cities across the country.

Programme diversity

5.6 SBS is mandated to provide multi-cultural and multi-lingual radio and television services that would entertain and inform all Australians and reflect the multi-cultural nature of Australia's society.

5.7 SBS's television services broadcast in more than 60 languages, and more than half of the programmes are in languages other than English. In addition, SBS broadcasts programmes from more than 400 international and local sources, featuring different genres of programming such as international news and current affairs, documentary, sports and feature movies.

5.8 SBS Radio is the world's most linguistically diverse radio network, which broadcasts programmes in 68 languages. Programmes range across local, national and international news, and include coverage of cultural, arts, music and sporting events within each language community. SBS broadcasts a different language programme every hour. Some languages broadcast up to 14 programmes a week while other smaller language groups have only one hour a week. The number of hours allocated to each language group is determined by the size of the language community concerned and its geographic distribution within Australia, as well as other factors such as age and the level of English proficiency of its members.

5.9 SBS has also provided closed captioning since 2001 for disabled people to facilitate their access to its programmes. Currently, all English television programmes transmitted between 6 pm and 10:30 pm are captioned. Furthermore, news and current affairs programmes (other than non-English language programmes) transmitted outside these hours are also captioned, where practicable.

Production

5.10 SBS is required under the *SBS Act* to serve as a niche national public service broadcaster screening programmes which serve Australians of diverse ethnic backgrounds and promote cultural awareness.

5.11 While maintaining a small in-house production, SBS purchases programmes from programme distributors in Australia and sometimes directly from producers from around the world. In addition, SBS, in 1994, established the SBS Independent which has commissioned independent producers to produce a wide range of quality programmes for screening in prime time on its television network. These programmes include feature movies, drama series, animation, single documentaries and documentary series. The SBS Independent administers the Special Production Fund (funded directly by the Australian government) and the smaller General Production Fund (funded by SBS from its base funding) to commission independent producers to make programmes for SBS.

5.12 SBS has put in place an in-house ethics guide – the SBS Editorial Guidelines – which stipulates, among other things, the requirements for the commissioned programmes and co-productions. For example, while accepting that its co-producers will often receive funding and other support from external sources, SBS does not allow the interest of the fund providers to compromise its editorial integrity and independence. In addition, news and current affairs programmes produced by SBS or commissioned for the SBS schedule must not be funded by any outside party. Furthermore, decisions to produce, commission or acquire a programme must be based upon the appropriateness of the programme for the SBS schedule, not on the capacity of the programme to attract revenue or other commercial considerations.

Regulatory framework

Governing legislation

Special Broadcasting Service Act 1991

5.13 The *SBS Act* defines the role, functions, duties and powers of SBS, as well as setting out its organization structure, public service mandate, independence and accountability.

Broadcasting Services Act 1992

5.14 As a national public service broadcaster, SBS is governed by the *Broadcasting Services Act 1992* which regulates all broadcasting services in Australia.

Regulatory authorities

5.15 Same as ABC, SBS is regulated by ACMA. In addition, SBS is also a portfolio body of DCITA.

Editorial independence

5.16 SBS is independent of the Australian government in its editorial and programming decisions. The *SBS Act* contains a number of provisions that ensure the editorial independence of SBS. Under Section 12 of the *SBS Act*, ministerial directions can only be given in respect of broadcasting a particular matter in the national interest.

5.17 Section 13 of the *SBS Act* further sets out the following limits on the government's directions to SBS:

- (a) *"except as otherwise provided by or under this or any other Act, the SBS and its Board are not subject to direction by or on behalf of the Commonwealth Government; and*
- (b) *the Minister [for Communications, Information Technology and the Arts] must not notify the Directors of general policies that would affect the content or scheduling of programs."*

5.18 SBS has also developed the SBS Editorial Guidelines to provide information and points of reference for helping programming staff exercise their professional judgment when dealing with pressures from outside parties to present events or issues in a particular way. For example, the SBS Editorial Guidelines require SBS not to engage in any commercial activities which clash with its Charter or threaten its editorial independence and integrity.

Sources of funding

5.19 Unlike ABC, SBS is permitted to supplement its government appropriations⁹ by generating income from advertising and sponsorship. It has sold air time on television since March 1992. Nevertheless, the *SBS Act* limits advertisement and sponsorship announcements to five minutes in any hour, and advertisement may only be broadcast at the beginning and end of a programme and during natural programme breaks. In addition, the *SBS Act* requires SBS to develop and publicize guidelines on the kinds of advertisements and sponsorship announcements that it is prepared to broadcast.

5.20 In 2004-05, SBS derived 78% of its funding from government appropriations and another 14% from advertising and sponsorship. The remaining 8% of its funding came from interest/dividend income, sale of programmes and merchandising.

Corporate governance

5.21 The *SBS Act* governs the composition and functions of SBS's Board of Directors. SBS is governed by a Board consisting of the Managing Director and between four and eight non-executive Directors. The non-executive Directors are appointed on a part-time basis by the Governor-General for not more than two five-year terms. In appointing non-executive Directors, the Governor-General will ensure that the Directors collectively possess an appropriate balance of expertise in the areas required to govern SBS effectively, including an understanding of Australia's multi-cultural society and the needs and interests of SBS's culturally diverse audience.

5.22 The Managing Director is appointed by the Board for a period not longer than five years, and is eligible for re-appointment. He/she is responsible for implementing the policies determined by the Board and conducting the day-to-day operation of SBS.

⁹ Same as ABC, SBS receives the government appropriations under the terms of triennial funding agreements by which SBS is guaranteed base funding for each of the three years covered by the agreement.

5.23 Section 7 of the *SBS Act* sets out the duties of the SBS Board, which mirror those of the ABC Board as described in paragraph 4.31. Same as ABC, the remuneration for the SBS Board is also determined by the Remuneration Tribunal.

5.24 SBS has also put in place a number of initiatives to safeguard its corporate governance, including setting up the Community Advisory Committee, and establishing the SBS Code of Practice and the complaint handling mechanism.

Community Advisory Committee

5.25 The SBS Community Advisory Committee is established in accordance with Section 50 of the *SBS Act*. As specified under the *SBS Act*, the function of the committee is to assist the SBS Board to fulfil its duty of being aware of and responsive to community needs and opinions "*by advising the Board on community needs and opinions, including those of small or newly arrived ethnic groups, on matters relevant to its Charter*".

5.26 Members of the SBS Community Advisory Committee are appointed by the SBS Board. In making the appointments, the SBS Board considers matters such as members' diversity of backgrounds, geographical spread and specialized skills and knowledge, which include the ability to reflect the needs and interests of women, youth, the aged and people with disabilities.

5.27 In 2004-05, the SBS Community Advisory Committee met three times and provided advice to the SBS Board on a range of issues, including the community perception of SBS's television programming strategies.

SBS Code of Practice

5.28 The SBS Board is required under the *SBS Act* to establish a code of practice relating to programming matters and inform the code to ACMA. However, SBS is not subject to programming standards determined by ACMA. In the event that SBS has failed to comply with its established Code of Practice, the public can file complaints with ACMA.

Complaint handling mechanism

5.29 SBS has established the Audience Affairs Unit, headed by the Audience Affairs Manager, to investigate all formal complaints. The Audience Affairs Manager reports directly to the Managing Director and is independent of all SBS's programming departments.

5.30 If necessary, the Audience Affairs Manager can refer a complaint to SBS's Complaints Committee for further consideration. The Complaints Committee will then review the complaint and make an independent determination of whether to uphold or dismiss the complaint. The Complaints Committee comprises (i) the Head of Television, (ii) the Head of Radio, (iii) the Chief Technology Officer, (iv) the Audience Affairs Manager, and (v) one member independent of the division being investigated, nominated and agreed to by the other members on a case-by-case basis.

Accountability

5.31 SBS is subject to the accountability arrangements similar to those governing ABC as described in paragraphs 4.40-4.47. For example, SBS is accountable to the federal government through submission of its Code of Practice to ACMA and a corporate plan to the Minister for Communications, Information Technology and the Arts. Other accountability arrangements include (i) empowering the Minister, after consultation with the SBS Board, to give directions to SBS in relation to proper performance of SBS's mandate¹⁰ and (ii) authorizing the Australian National Audit Office to conduct audits on SBS's accounts and operation.

5.32 Same as ABC, SBS is required to submit an annual report to Parliament and comes under the scrutiny by relevant parliamentary committees. Furthermore, SBS has also put in place an internal compliant handling mechanism and the complainants can lodge a complaint with ACMA if he/she fails to receive a satisfactory response from SBS.

Distinctiveness from commercial broadcasters

5.33 Compared with commercial broadcasters, SBS is subject to different programming requirements under Australia's broadcasting legislation. The *SBS Act* establishes SBS as a niche public service broadcaster providing multi-cultural and multi-lingual broadcasting services for all Australians. According to SBS, such a legislative role requires it to "*deliver content that builds a shared sense of national identity and that offers Australian audiences services which are distinctive from those available through other broadcasters*".¹¹ No equivalent obligation is imposed on commercial broadcasters under Australia's broadcasting legislation.

5.34 On the other hand, both commercial broadcasters and SBS are financed by advertising revenue, albeit to different extent. Commercial broadcasters support themselves primarily by advertising revenue, while SBS derives about 14% of its funding from advertisement and sponsorship.

¹⁰ Nevertheless, the Minister must not give directions in relation to the content or scheduling of programmes to be broadcast.

¹¹ See Special Broadcasting Service Corporation (2004).

Review of the Special Broadcasting Service Corporation

5.35 In 2005, SBS initiated a comprehensive review of its Code of Practice. The review aimed at updating, improving and maintaining the relevance of the code to the contemporary media environment, particularly taking into account relevant changes in technology, community attitudes and the media industry.

6. Digitization

Digital television

6.1 In March 1998, the Australian government announced the introduction of digital terrestrial television broadcasting (DTTB) in Australia. The major policy framework for digital television broadcasting was enacted through amendments to the *Broadcasting Services Act 1992*, which include the following:

- (a) the mandated introduction of DTTB in metropolitan areas from 1 January 2001 and in all regional areas by 1 January 2004;
- (b) the requirement for broadcasters to transmit standard definition digital television signals at all times and at least 1 040 hours of high definition digital broadcasts¹² annually;
- (c) provisions to allow ABC and SBS to provide multi-channel services, but subjecting the national public service broadcasters to the legislative restrictions which limit the genres of programming they are permitted to broadcast¹³; and
- (d) the obligation on existing broadcasters to continue their analogue broadcasting for at least eight years after the start date for digital services in their licence/coverage areas.

¹² Standard definition broadcasts provide widescreen picture with DVD-equivalent picture quality. The resolution is 576i (576 horizontal lines interlaced). High definition broadcasts also provide widescreen pictures, but they have an even sharper image with up to twice the horizontal and almost three times the vertical resolution of standard definition. See CNET.com.au (2006).

¹³ ABC and SBS are allowed to provide educational, science, religious, health and children's programmes on new digital channels, but not programmes such as national news broadcasts, drama, movies and most sport broadcasts.

Australian Broadcasting Corporation

6.2 ABC has fulfilled its legislative obligations to begin digital broadcasting in metropolitan areas and regional areas from 2001 and 2004 respectively. In 2004-05, ABC's digital transmission reached 95.8% of Australia's population from 137 transmitter locations, compared with 94.3% in 2003-04. ABC's television services also broadcast 1 858 hours of high definition materials in 2004-05, exceeding the requirement set out in the *Broadcasting Services Act 1992*.

6.3 ABC currently provides its viewers with a choice of two different digital programme services. While one programme stream simulcasts ABC's analogue television services, the second stream offers access to the digital-only channel, ABC2. ABC2 was launched in March 2005 to broadcast a mix of repeats of ABC's television programmes and original programming.

Special Broadcasting Service Corporation

6.4 SBS has also fulfilled its legislative obligations to begin digital broadcasting in metropolitan areas and regional areas from 2001 and 2004 respectively. It has rolled out digital transmission to over 90% of Australia's population from 127 transmitter locations.

6.5 Currently, SBS broadcasts digitally a simulcast of its analogue television services in standard definition and high definition formats. It also operates the digital-only World News Channel and SBS Essential.

Digital radio

6.6 On 14 October 2005, the Minister for Communications, Information Technology and the Arts announced a framework to guide the introduction of digital radio in Australia. Under the framework, Australia implements terrestrial digital radio based upon a technology standard known as Eureka 147.¹⁴ The framework also calls on broadcasters to commence trials of digital radio services in regional areas so that technical and other issues could be resolved. Indeed, digital radio trials have been conducted in Sydney and Melbourne since 2003.¹⁵ On 4 April 2006, the Minister announced the introduction of digital radio services in six capital cities by 1 January 2009.

¹⁴ Eureka 147 is a protocol for digital audio broadcasting developed in Europe in 1986, and is a mature technology being deployed in many places around the world. Eureka 147 uses multiplexing techniques that combine several different radio services into a single stream of digital data. Pictures, text and other types of data can be transmitted using this standard.

¹⁵ The Sydney trials included ABC, SBS and seven commercial broadcasters, while the Melbourne trials involved ABC, SBS, several community broadcasters and other broadcasters.

Australian Broadcasting Corporation

6.7 ABC has been actively involved in the development of digital radio by participating in the trials conducted in Sydney and Melbourne. Currently, ABC operates three digital radio services, Dig Country, Dig Jazz and Dig. Dig Country broadcasts country and western music, whereas Dig Jazz broadcasts jazz from Australia and around the world. Meanwhile, Dig plays music from the genres of pop, rock, blues, country, soul, jazz and world music.

Special Broadcasting Service Corporation

6.8 SBS has also actively participated in the digital radio trials, including experimenting with the development of tailored content. SBS's radio programmes could be heard in Sydney and Melbourne on digital radio receivers through trials conducted in 2004-05. Currently, SBS delivers two digital radio services through its digital television platform, broadcasting programmes in 68 languages.

7. Community broadcasting services

7.1 Community broadcasting services are defined at section 15 of the *Broadcasting Services Act 1992* as radio or television services that:

- (a) are provided for community purposes;
- (b) are not operated for profit or as part of a profit-making enterprise; and
- (c) provide programmes that are able to be received by commonly available equipment and are made available free to the general public.

7.2 In Australia, ACMA licenses community broadcasters to provide non-profit services which broadcast news, information, cultural content and entertainment to communities defined by geographical location or common interest. Community broadcasting distinguishes itself from other media by actively promoting public access and participation in the processes of media operation, administration and production. As such, it is volunteer driven with over 20 000 volunteer broadcasters and supporting staff helping to deliver media "for the people by the people".

7.3 The community broadcasting sector in Australia is largely self-funded, i.e. supported through sponsorship and listener/viewer subscriptions. The Australian government does provide some funding support through the Community Broadcasting Foundation, an independent non-profit funding agency that solicits and distributes government funding for the maintenance and development of community broadcasting in Australia.

7.4 Community broadcasters are subject to the licence conditions set out in the *Broadcasting Services Act 1992*, which range from general conditions applicable to all broadcasting services in Australia, to more specific conditions that are relevant to community broadcasting services. The specific conditions include the provisions prohibiting community broadcasters from carrying advertising but allowing them to carry up to five minutes of sponsorship announcements per hour. Community broadcasting licensees are also subject to the relevant programme standards and industry codes of practice in the provision of services. For example, community radio and television stations are obliged to broadcast in accordance with the Community Radio Codes of Practice and Community Television Codes of Practice respectively.

Community television

7.5 In Australia, community television services deliver local information and entertainment programming satisfying the needs of local communities. In 1992, the then Australian Broadcasting Authority licensed community television services on a trial basis. Six operators were licensed to provide community-based television programmes in Sydney, Melbourne, Brisbane, Adelaide, Perth and Lismore.

7.6 In February 2003, the Australian Broadcasting Authority formalized the licensing arrangements for community television by issuing long-term licences to operate community television services in Australia. Long-term community television licences have been issued in Sydney, Melbourne, Brisbane and Perth.

Community radio

7.7 A community radio broadcaster can apply for a temporary licence or a long-term licence from ACMA. There are around 350 long-term licensees and 42 temporary licensees providing community radio services throughout the country.

7.8 Long-term community broadcasting licences are allocated in an area where ACMA has completed public spectrum planning to make available spectrum for community broadcasting services. ACMA may grant temporary community broadcasting licences to allow community broadcasting aspirants to provide radio services before long-term community broadcasting licences are allocated. Temporary community broadcasting licences are issued for periods of up to 12 months.

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