

**THIS IS THE TEXT OF THE LETTER FROM SENATOR THE HON. BOB COLLINS, MINISTER FOR TRANSPORT AND COMMUNICATIONS TO BRIAN JOHNS, ABA CHAIRMAN, AS TABLED IN THE SENATE ON 3 DECEMBER 1992. THE LETTER OUTLINES GOVERNMENT POLICY TOWARD THE ABA AS WELL AS MANAGEMENT AND ADMINISTRATIVE ARRANGEMENTS. THE TEXT OF BRIAN JOHNS' REPLY TO THE MINISTER FOLLOWS.**

2 December 1992

Dear Mr Johns

Following on from our discussions prior to your appointment and now that you have had a short period to 'settle-in', I am writing to outline for you, consistent with the provisions of the *Broadcasting Services Act 1992*, some of the general policies of the Government that apply to the ABA and some important management and administrative matters.

The Act is a very different style of regulation from that embodied in the *Broadcasting Act 1942*. It provides a flexible framework which can meet the technological changes and demand pressures likely to manifest themselves over the coming decade. This will allow the regulatory adjustments to accommodate changing circumstances, while at the same time minimising regulatory intervention. As such, it is confined to broader principle: the detailed elements of much of the regulation are not specified. The Act gives significant discretion to the ABA and the Act provides at sections 4, 5 and 168 that the ABA will avoid close prescription and minimise regulatory interventions.

**RESOURCE ISSUES**

Staff from the former ABT [Australian Broadcasting Tribunal] and Station Planning Branch (SPB) of the Department of Transport and Communications became the ABA's responsibility on commencement of the Act. The ABA had a total of some 217 staff at 5 October 1992. The 1992-93 Budget provides cover for full salaries and administrative costs based on the existing forward estimates for both the ABT and SPB, but with the Department continuing to provide corporate support to SPB.

The Act will lead to a number of significant efficiency improvements with resultant cost savings. As part of the Budget process the Government decided that a resource target of 157 staff be reached by the 1994-95 financial

year. In recognition of transitional work loads and the costs of any staff separations, the Government has made provision for these contingencies in the intervening years.

**LOCATION OF THE ABA**

In order to effect a smooth regulatory transition from the ABT to the ABA, arrangements were made for staff transferring to the new Authority to continue to operate from their current locations. This arrangement will minimise disruption and allow officers to focus on the important regulatory and operational changes which are encompassed in the Act.

Before the Government takes a decision on the most desirable long term arrangements for accommodation of the ABA, I would like to have your advice on this matter. I would need this by the end of February 1993 in order for a decision to be made in the context of forward budget estimates. Relevant papers prepared on this subject as part of the ABA establishment process have been provided to you separately.

**MANAGEMENT OF RADIO FREQUENCY SPECTRUM**

The Australian public has made a very substantial investment in receiver equipment for radio and television services capable of receiving a limited number of frequencies. For this reason, the Government has decided that these frequencies should be planned by the ABA in an open and consultative way, thereby ensuring that the public interest aspects attached to their use are properly considered. After consultation with you, I have assigned specific bands to the ABA under s. 18 of the *Radiocommunications Act 1983*.

Since the ABA has responsibility for planning the assigned parts of the radio-frequency spectrum, it is vital that the Authority establish close linkages with planners of other areas of the spectrum. I understand work is already under way to prepare written understandings in the form of an exchange of letters, which set out in detail the relationships on matters related

to the spectrum. Arrangements already in place will provide an adequate means of dealing with any issues that might arise in advance of these written understandings.

Areas where an exchange of letters is required include:

- the interface with the Radiocommunications Division of the Department and, later, the Spectrum Management Agency (SMA), on the allocation of spectrum responsibilities;
- the development of equipment standards;
- representation at international meetings; and
- access to the Communications Laboratory.

**COLLECTION OF COMMERCIAL BROADCASTING LICENCE FEES**

The ABA will continue to collect commercial radio and television licence fees levied under the provision of the *Radio Licence Fees Act 1964* and *Television Licence Fees Act 1964* on behalf of the Commonwealth. I expect that the ABA will continue to report to me on those licensees in arrears in payment, so that prompt recovery action can be taken.

**GOVERNMENT POLICIES TO BE OBSERVED BY THE ABA**

The Government's position on a number of specific policies related to the Act were set down in my Second Reading Speech at the time of its introduction into Parliament and I draw your attention to this material. Under s. 161 of the Act, I hereby notify the ABA of the following general policies of the Government that are to apply to the ABA in relation to evaluation and annual reports.

**EVALUATION**

The Government's strategy for enhancing evaluation within portfolios requires that the department and agencies in each portfolio are to:

- develop plans covering all departmental/agency evaluations for the purpose of integrating evaluation within

the corporate and program management process;

- integrate evaluation activities into the life cycle management of programs; and
- allocate adequate resources to meet evaluation requirements.

I am responsible for ensuring that all agencies within my portfolio conform to this requirement. I expect the ABA will take the necessary action to design and implement a program of evaluation in accordance with the guidelines provided and keep me informed of progress, through the Portfolio Evaluation Plan (PEP) and ABA's own Agency Evaluation Plan.

#### **ANNUAL REPORT**

The Act provides for new accountability requirements, while retaining a suitable measure of statutory independence for the ABA. The ABA is required under the provisions in clause 14 of Schedule 3 of the Act to provide me with an annual report of its activities for tabling in Parliament. In accordance with normal Commonwealth accountability practice, the ABA is also expected to develop a Corporate Plan identifying major priorities and strategic direction on a three year basis, updated annually.

A further key accountability requirement is for the preparation of input to the Program Performance Statement within the Budgetary process.

#### **INTERNATIONAL TREATIES**

The Act stipulates at s. 160 that the ABA 'is to perform its functions in a manner consistent with Australia's obligations under any convention to which Australia is a party or any agreement between Australia and a foreign country'. Any program

standards will need to be consistent with this requirement. The ABA will also need to ensure that its future decisions and actions are consistent with Australia's developing international commitments, and that changes to Australia's obligations are reflected in revisions of program standards.

To assist the ABA, I have asked the Minister for Trade and Overseas Development to give me a comprehensive and up-to-date listing of all relevant treaties and agreements to which Australia is currently a party. The list will be forwarded to you as soon as it is to hand.

There is one area to which I specifically draw your attention in regard to s. 160. The Services Protocol to the Closer Economic Relations (CER) agreement between Australia and New Zealand provides under Article 5 'National Treatment' that each member State shall accord the other treatment no less favourable than accorded its persons and services provided by them. Having consulted with the Minister for Overseas Trade and Development, I am aware that Australia's present treatment of New Zealand produced programming in Australian content Standard TPS14 may be in breach of Australia's Services Protocol obligations. I would hope that the ABA can quickly reconsider the Australian content standard. Relevant also for Australian content standards are our obligations under film co-production treaties. I recognise that any review of the standard will require wider consideration.

#### **NATIONAL BROADCASTING SERVICES**

The ABA will inevitably have dealings with the Broadcasting Policy Division of the Department, the National Transmis-

sion Agency (NTA) and the two national broadcasters about the national transmitter network. In that context, it may be helpful to clarify responsibilities in relation to the planning and provision of national broadcasting services as defined under s. 13(1) of the Act and services determined to be national broadcasting services under s. 13(3) of the Act.

The Department has overall responsibilities for providing advice to the Government in relation to reservations under s. 31 of channel capacity for national broadcasting services; advice on which services and which service extensions have been approved by Government; and for general advice on Government policy for the maintenance and extension of services.

The NTA has responsibility for the provision of transmission facilities for national broadcasting services. As such it is the appropriate contact in relation to technical matters associated with transmission of services which have been explicitly approved by Government.

#### **SUBSCRIPTION TELEVISION SERVICES**

The Parliament passed provisions for subscription television broadcasting services when it enacted a revised Part 7 of the *Broadcasting Services Act 1992* on 26 November 1992. Those provisions will come into effect following proclamation on 7 December 1992 and provide you with a regulatory framework for the licensing of pay TV and oversight of this industry sector.

Finally, I wish you well in leading the Authority to implement the provisions of this Act.

Yours sincerely

BOB COLLINS

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Senator the Hon Bob Collins  
Minister for Transport and Communications

Dear Minister

Thank you for your letter of 2 December 1992 in which you outline some of the general policies of the Government that apply to the ABA and some important

management and administrative matters.

Taken together with our earlier discussions, I have noted the points set out in your letter and undertake that they will be taken into account in the ABA's implementation of the provisions of the *Broadcasting Services Act 1992*.

The ABA has, of course, initiated action already on most of the areas mentioned in your letter and further work will

proceed in consultation with yourself and your Department as required, having regard to the revised regulatory environment put in place by the *Broadcasting Services Act*.

I look forward to our continued co-operation in these matters.

Yours sincerely

BRIAN JOHNS