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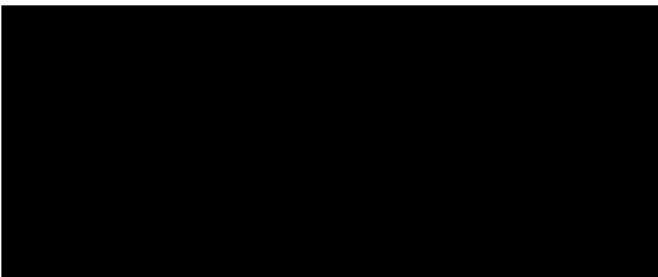
**From:** [REDACTED]  
**Sent:** Tuesday, 12 July 2016 2:32 PM  
**To:** [REDACTED]  
**Subject:** ABC - Bargaining and the post-election period [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi [REDACTED]

[REDACTED] sent the below email to Chief Negotiator's earlier today. I am passing it onto you for your information in case you haven't seen it.

If you have any questions please let me know.



---

**From:** [REDACTED]  
**Sent:** Tuesday, 12 July 2016 11:48 AM  
**Subject:** Bargaining and the post-election period [SEC=UNCLASSIFIED]

Dear Chief Negotiators

**Bargaining and the post-election period**

We've had a few enquiries now about next steps in bargaining.

For those agencies with an approved enterprise agreement, please continue to hold off until we have had an opportunity to brief the Minister and confirm the Government's position on workplace bargaining.

The position on other bargaining-related activity also remains as per our Caretaker period advice.

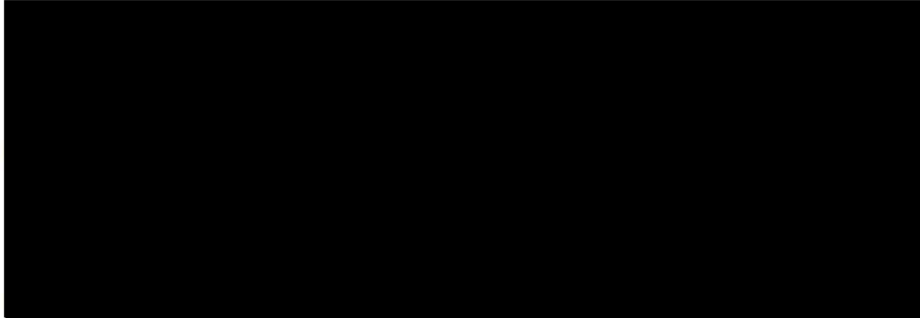
I anticipate being able to provide further advice in the coming days.

I also intend to recommence the regular Chief Negotiators' Forum in the next few weeks and will send invitations shortly.

APSC Relationship Managers will be touching base with bargaining teams to get an update on bargaining plans and intentions. This information will assist in our resource planning.

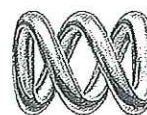
I thank you for your patience during this period. Please contact your APSC Relationship Manager if we can assist further.

Thanks



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5 August 2016



**ABC**  
Australian  
Broadcasting  
Corporation

Senator The Hon Michaelia Cash  
Minister for Women  
PO Box 6022  
Parliament House  
Canberra ACT 2600

Office of the  
Managing Director

ABC Ultimo Centre  
700 Harris Street  
Ultimo NSW 2007

GPO Box 9994  
Sydney NSW 2001

Tel. +61 2 8333 5342  
Fax +61 2 8333 5172  
abc.net.au

Via email: [senator.cash@aph.gov.au](mailto:senator.cash@aph.gov.au)

Dear Minister

I would like to congratulate you on the re-election of the Coalition government and your appointment to serve as a Minister for Women and the Minister for Employment.

As you would be aware, over its 84-year history the ABC has also been proud to serve Australia through programs such as 7.30, *Four Corners*, *Australian Story*, *AM*, *PM*, *Landline* and *ABC Rural*. Through these services, the ABC makes a strong contribution not only to Australian democracy through its news services and to educating and entertaining Australians also but also to creating Australian jobs in the creative sector.

The ABC also continues to invest in new programs and services, ensuring that it remains relevant to all Australians, including:

- ABC TV broadcast landmark new series such as *Barracuda*, and *Cleverman*. The highly popular regional television series *Back Roads* will also return with a second season in late 2016;
- ABC Radio continues to create and broadcast quality content and has delivered new, engaging services in particular in the podcast genre, with hits such as *Science Vs*, *Burn Your Passport* and, during the election, *The Party Room* with Patricia Karvelas and Fran Kelly; and
- In the News digital space, ABC led the nation's election coverage with its *Australia Votes site* and over 1.2 million Australians undertook the ABC's *Vote Compass* survey.

It is fundamentally important that the ABC has motivated, skilled staff to deliver services that provide a valuable return on the investment made by the Australian people. You may be aware that the ABC is currently undertaking its Employee Agreement bargaining process. In line with the APS Bargaining Policy the ABC is offering a modest salary increase in return for more flexible working arrangements. We expect to reach an in principle agreement by mid-August and believe that this agreement will continue the ABC's drive to enhance



efficiencies while meeting our Charter obligations and increasingly expansive audience expectations.

Once again, congratulations on your appointment. I wish you well for the parliamentary term ahead.

Yours sincerely

A handwritten signature in black ink, which appears to read "Michelle Guthrie".

Michelle Guthrie  
Managing Director

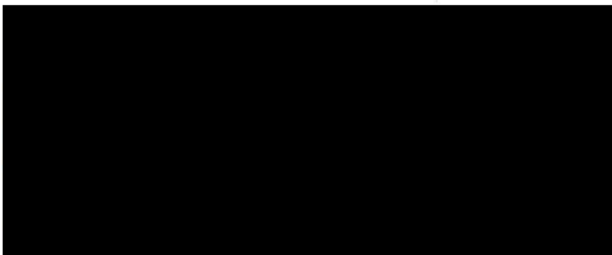
[REDACTED]

**From:** [REDACTED]  
**Sent:** Thursday, 18 August 2016 9:25 AM  
**To:** [REDACTED]  
**Subject:** FW: Confirmation of the Bargaining Policy [SEC=UNCLASSIFIED]

Good morning

Please find attached an email confirming the Bargaining Policy which was sent to Chief Negotiators earlier.

If you have any questions please let me know.



---

**From:** [REDACTED]  
**Sent:** Thursday, 18 August 2016 8:55 AM  
**Cc:** [REDACTED]  
**Subject:** Confirmation of the Bargaining Policy [SEC=UNCLASSIFIED]

*This message is being sent on behalf of* [REDACTED]

Dear Chief Negotiators

We are now in a position to confirm that the Government has announced the *Workplace Bargaining Policy 2015* will continue to apply.

Refer Minister Cash's media release [17 August 2016](#).

A number of agencies have indicated they would be ready to go to ballot once the Government's position was clear. It is expected to be a busy period. We ask that these agencies keep their relevant APSC relationship managers informed of their plans, as this information is reported to the Minister.

Good Faith Bargaining

A reminder that agencies preparing to proceed to ballot should be careful to ensure that bargaining representatives have been given an opportunity to respond and have their views considered prior to concluding bargaining.

Resource

As many of you are getting closer to finalising your EAs and putting them to a vote, we thought it worth reminding you about the FWC's Enterprise Agreement Benchbook which is a very useful resource:

<http://benchbooks.fwc.gov.au/enterpriseAgreements/>

We are expecting a high workload period and we appreciate your patience.

Thanks



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**Senator the Hon Michaelia Cash**  
Minister for Employment  
Minister for Women  
Minister Assisting the Prime Minister for the Public Service

Reference: MC16-000073

Ms Michelle Guthrie  
ABC Ultimo Centre  
200 Harris Street  
Ultimo NSW 2007

Dear Ms Guthrie

A handwritten signature in dark ink, appearing to read 'Michaelia Cash'.

**Bargaining in the Australian Broadcasting Corporation**

Thank you for your letter of 5 August 2016 regarding bargaining in the Australian Broadcasting Corporation (ABC).

I am encouraged by your advice concerning the progress of enterprise bargaining.

The ABC, as a Commonwealth Government body, is required to comply with the requirements of the Workplace Bargaining Policy 2015. I understand the Prime Minister, when Minister for Communications, also conveyed this requirement to the ABC.

In the process of finalising your agreement the policy requires the ABC to provide the Australian Public Service Commissioner with the proposed agreement for approval. This must be done prior to putting the agreement to a vote of employees.

The Australian Public Service Commission assesses the agreement against the bargaining policy prior to seeking the Commissioner's approval. I am advised that the contact officer for ABC bargaining matters is [REDACTED] Director, Conditions Policy, Workplace Relations Group, who can be contacted on [REDACTED] or via email [REDACTED].

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Michaelia Cash'.

Senator the Hon Michaelia Cash  
7/8/2016

[REDACTED]

**From:** [REDACTED]  
**Sent:** Friday, 30 September 2016 12:02 PM  
**To:** [REDACTED]  
**Subject:** RE: ABC - media article in the Australian re proposed enterprise agreement [ABC-PAL.FID25565] [SEC=UNCLASSIFIED]

Hello [REDACTED]

Thank you for sending copies of the proposed EA and of the information provided to ABC staff.

We understand that the access period commenced on 28 September 2016 and that the ballot closes on 25 October 2016, is that correct?

Are you able, please to tell me when the ballot opens? And, I assume that the access period will continue through until the day before the ballot opens – is that also correct?

Thanks  
[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Thursday, 29 September 2016 5:32 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: ABC - media article in the Australian re proposed enterprise agreement [ABC-PAL.FID25565] [SEC=UNCLASSIFIED]

Dear [REDACTED]

I refer to your conversation with [REDACTED] this afternoon.

Please find attached the following:

- Proposed ABC Enterprise Agreement 2013-2016; and
- Information Paper for Staff.

Regards,  
[REDACTED]





**From:** [REDACTED]  
**Sent:** Thursday, 29 September 2016 2:06 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** ABC - media article in the Australian re proposed enterprise agreement [SEC=UNCLASSIFIED]

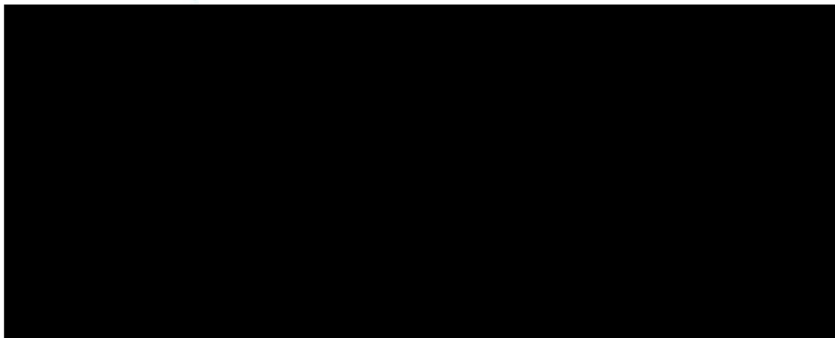
Hello [REDACTED]

[REDACTED] is currently on leave. So, I am writing with regard to the media article in the Australian this morning about the terms of the ABC's proposed enterprise agreement. Are the claims made in the article about the enhanced conditions accurate? Further, our minister, Senator the Hon Michaelia Cash, in her role as Minister Assisting the Prime Minister for the Public Service, has some questions about the Agreement's terms.

Are you able, please, as a matter of priority, to give me a call? Alternatively, you may wish to call [REDACTED], the APSC's Workplace Relations Group Manager, on [REDACTED].

Will you please also send us a copy of the proposed enterprise agreement?

Thanks and regards



*Please consider the environment before printing this e-mail.*



The Australian Public Service Commission acknowledges the Traditional Custodians of country throughout Australia and recognises their continuing connection to land, waters and community. We pay our respects to them and their cultures; and to elders both past and present.



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**From:** [REDACTED]  
**Sent:** Friday, 30 September 2016 4:19 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** FW: ABC - proposed EA terms - 30.9.16 [SEC=UNCLASSIFIED]

Hi [REDACTED]

I have made a change to the wording of our assessment of the proposed family violence leave term in the table below for your use/information.

Regards

[REDACTED]

**From:** [REDACTED]  
**Sent:** Friday, 30 September 2016 4:13 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** ABC - proposed EA terms - 30.9.16 [SEC=UNCLASSIFIED]

Hello [REDACTED]

We have had a quick look at the proposed ABC Enterprise Agreement 2016-2019 and have identified the following terms to be significant breaches of the Workplace Bargaining Policy:

Term/ Condition	Current ABC EA (2013-2016)	Draft ABC EA reviewed by APSC in February 2016	New proposed ABC EA
General pay increases	2.6% on 1 July 2013; 2.45% on 1 July 2014; 2.5% on 1 July 2015	Did not propose specific increases. APSC indicated no greater than an average of 2% p.a. over at least 3 years. APSC made clear that backpay is not allowable.	2% general pay increase, <u>backdated</u> to 1 July 2016; a further 2% on 1 July 2017; a further 2% on 1 July 2018
Nominal expiry date	30-Jun-16	Not proposed in this draft. APSC indicated this needed to be at least 3 years from the date of commencement.	Nominal expiry date of 30 June 2019 (i.e. less than 3 years)

Sign-on bonus	A “once off upfront payment” of \$500 on the commencement of the Agreement	A “once off upfront payment” of \$500 on the commencement of the Agreement. APSC indicated that this is not allowable under the policy.	A “once off upfront payment” of \$500 on the commencement of the Agreement
Casual loading	20% casual loading	20% casual loading	25% casual loading
Maternity Leave	14 weeks' paid leave	14 weeks' paid leave	16 week's paid leave
Parental leave	Two weeks' supporting partner leave	Two weeks' supporting partner leave	Four weeks' supporting partner leave
Employer superannuation contributions	Unpaid parental leave not to count as service (i.e., superannuation not payable during unpaid leave)	Unpaid parental leave not to count as service (i.e., superannuation not payable during unpaid leave)	Superannuation payable during unpaid parental leave
Family violence leave'	No nominated or distinct domestic violence leave type.	No nominated or distinct domestic violence leave type.	Seven days' paid 'family violence leave', non-accruable

We will continue to assess the minutia of the Agreement and will update you on any further inconsistencies that we identify once we have completed that task.

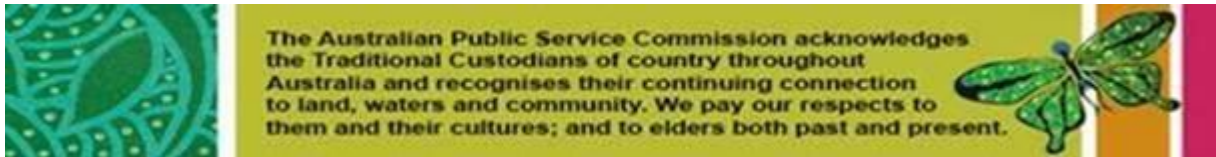
Also, we understand that the access period commenced on 28 September 2016 and that the ballot closes on 25 October 2016 is that correct?

Are you able, please, to tell me when the ballot opens? And, I assume that the access period will continue through until the day before the ballot opens – is that also correct?

Thanks for your ongoing assistance

[REDACTED]  
[REDACTED] | [REDACTED]  
[REDACTED]  
[REDACTED]  
  
[REDACTED]  
[REDACTED]  
  
[REDACTED] | [REDACTED] | [REDACTED]

*Please consider the environment before printing this e-mail.*



**From:** [REDACTED]  
**Sent:** Thursday, 29 September 2016 5:32 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: ABC - media article in the Australian re proposed enterprise agreement [ABC-PAL.FID25565] [SEC=UNCLASSIFIED]

Dear [REDACTED],

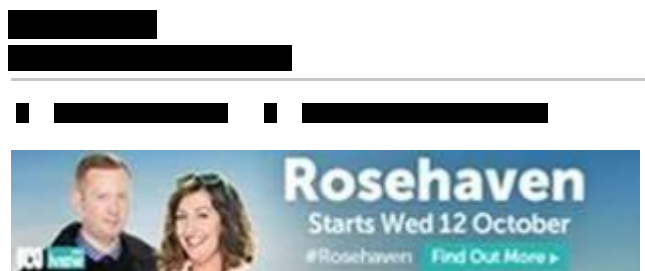
I refer to your conversation with [REDACTED] this afternoon.

Please find attached the following:

- Proposed ABC Enterprise Agreement 2013-2016; and
- Information Paper for Staff.

Regards,

[REDACTED]



**From:** [REDACTED]  
**Sent:** Thursday, 29 September 2016 2:06 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** ABC - media article in the Australian re proposed enterprise agreement [SEC=UNCLASSIFIED]

Hello [REDACTED]

[REDACTED] is currently on leave. So, I am writing with regard to the media article in the Australian this morning about the terms of the ABC's proposed enterprise agreement. Are the claims made in the article about the enhanced conditions accurate? Further, our minister, Senator the Hon Michaelia Cash, in her role as Minister Assisting the Prime Minister for the Public Service, has some questions about the Agreement's terms.

Are you able, please, as a matter of priority, to give me a call? Alternatively, you may wish to call [REDACTED], the APSC's Workplace Relations Group Manager, on [REDACTED].

Will you please also send us a copy of the proposed enterprise agreement?

Thanks and regards



[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text] | [Redacted text] | [Redacted text]

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**From:** "LLOYD,John" <[John.Lloyd@apsc.gov.au](mailto:John.Lloyd@apsc.gov.au)>  
**Date:** 6 October 2016 at 1:03:10 PM AEDT  
**To:** Undisclosed recipients;;  
**Subject:** Workplace Bargaining Policy [SEC=UNCLASSIFIED]

Dear Colleagues

The Fair Work Commission yesterday terminated protected industrial action that had been underway in the Department of Immigration and Border Protection (DIBP).

This means that the industrial action ceases. It is possible that issues in dispute will be subject to arbitration by a Full Bench of the Fair Work Commission.

The decision does not affect bargaining in other agencies. It relates to the circumstances of bargaining in DIBP and its industrial action, particularly the potential impacts on safety and security. The DIBP bargaining is relatively complex due to the merging of the pay and conditions from two previous legacy agencies that make up the DIBP. It is anticipated that any arbitral proceedings will be lengthy and of course confined to the DIBP circumstances.

The Government's bargaining policy is unaffected by the DIBP decision and will not change. Agencies that have not settled a new agreement are obliged to continue to bargain in accordance with the policy. Employees should be urged to vote for new agreements to avoid further loss of income and associated benefits.

The scheme of the Fair Work Act 1999, as reflected in the Government's bargaining policy, is to focus on an employer and employees bargaining to achieve an enterprise agreement. The termination of industrial action followed by arbitration are very much the exception.

Regards

**John Lloyd PSM | Commissioner**

**Australian Public Service Commission**  
Level 6, Aviation House, 16 Furzer Street, PHILLIP ACT 2606  
[REDACTED] | [REDACTED] | **W:** [www.apsc.gov.au](http://www.apsc.gov.au)

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**ABC**Australian  
Broadcasting  
Corporation

Office of the Chairman

ABC Ultimo Centre  
700 Harris Street  
Ultimo NSW 2007GPO Box 9994  
Sydney NSW 2001Tel. +61 2 8333 5135  
Fax. +61 2 8333 2967  
abc.net.au

7 October 2016

Senator the Hon Michaelia Cash  
Minister Assisting the Prime Minister for the Public Service  
Parliament House  
CANBERRA ACT 2600

Dear Senator Cash

I refer to recent conversations between the ABC and the Australian Public Service Commission regarding the Corporation's negotiations with staff for a new Enterprise Bargaining Agreement.

As you would be aware, the Corporation's obligations under the ABC Act 1983 provide for the ABC's independence. Sole responsibility for setting pay and conditions for staff rests with the Board. This independence has been asserted by the ABC in conversations throughout the current bargaining round. Consistent with that position, the ABC has set in train the process for a formal vote of staff for a revised EA.

The Board is cognisant of its responsibility under section 8 of the ABC Act to have regard to government policy where requested. The ABC has been advised of the Workplace Bargaining Policy (Policy).

The ABC has taken into account that Policy when making its offer. The ABC seeks to:

- reduce restrictive content in its Agreement
- condense a two-part process for managing poor performance into one simplified process
- introduce less restrictive Hours of Work clauses, that allow management to engage employees on shorter shifts and give management flexibility in moving staff between roster cycles, where operationally required
- include a new provision that allows the ABC to direct employees to take annual leave during regular shutdowns over the Christmas- New Year period.

At all times in the EA process, the ABC Board and ABC management have paid heed to their obligations and the overriding goal to deliver an efficient and effective national broadcaster.

The Corporation has sought to negotiate an outcome which:

- provides certainty for staff and the Corporation over the next three years
- sustains a modest pay rise while removing rigidities in the current EA
- sets the foundations for more work to reposition the ABC in a volatile media landscape.

Despite 26 weeks of negotiations with the Commonwealth Public Sector Union and the Media, Entertainment and Arts Alliance, the ABC has been unable to secure agreement. As a result, the ABC will put its offer to staff under the threat of protected industrial action.

The ABC's Managing Director, Michelle Guthrie, reiterated these points to the Head of the APSC last week. Michelle and I are happy to meet you to discuss this further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'James Spigelman', with a stylized, flowing script.

James Spigelman  
Chairman, ABC Board





**SENATOR THE HON MICHAELIA CASH**  
Minister for Women  
Minister Assisting the Prime Minister for the  
Public Service  
Minister for Employment

**SENATOR THE HON MITCH FIFIELD**  
Minister for Communications  
Minister for the Arts  
Manager of Government Business in the Senate

The Hon James Spigelman AC QC  
Chairman  
Australian Broadcasting Corporation  
GPO Box 9994  
Sydney NSW 2001

## **ABC's Enterprise Agreement**

Dear Mr Spigelman

We are writing to you to draw your attention to the failure of Australian Broadcasting Corporation (ABC) to put an enterprise agreement offer to staff that is consistent with the Australian Government's Workplace Bargaining Policy 2015 (the Policy).

Ministers have advised the ABC, on a number of occasions, of the Government's expectation that the ABC would comply with the terms of the Policy in its current round of bargaining. A number of comparable Government bodies, most notably SBS, have all complied with the Policy.

The proposed enterprise agreement recently put to staff for consideration offers substantial back pay and a sign-on bonus, both of which are inconsistent with the Policy. Other aspects of the ABC's proposed enterprise agreement are also inconsistent with the bargaining policy, such as the enhancement of existing generous terms and conditions, and the continued inclusion of restrictive work practices which interfere with managerial prerogative. Also, the ABC declined to follow the approval processes required by the bargaining policy.

This latest proposed enterprise agreement follows another agreement which we understand came into operation for senior ABC employees in March 2016. Again, that agreement contained provisions inconsistent with the bargaining policy and the approval processes were not followed.

Adherence to the Policy is one component of the Government's strategy to bring the federal budget back into balance. As an organisation that receives over \$1 billion annually in taxpayer funding, the Government expects that the ABC will assist in delivering that outcome in the current fiscally constrained environment, including by compliance with the Policy.

As a result of the 2014 Efficiency Study, the ABC will need to find \$254.2 million over 5 years in operational efficiencies. At a time when the ABC is facing a number of competing priorities, including the rising cost of supporting Australian drama and other content and the ongoing need to support services to regional and remote Australians, there is a need for the ABC to explain why it has chosen to offer a range of measures which are significantly more generous than those adopted by any other Australian Government body.

This approach is incongruous with recent budget discussions in which the ABC sought additional funding for on-screen content. In an environment where the ABC is offering a sign on bonus for staff that equates to more than \$1.2 million, let alone the financial impact of generous back pay provisions, there is a need for the ABC to explain how this is a higher priority compared to the ABC's other Charter obligations.

While we note the ABC's position regarding independence, we do not consider that an enterprise bargaining offer which is consistent with the Government's policy undermines the ABC's editorial and programming independence. We also draw to your attention that other organisations within the portfolio such as SBS and nbn co have complied with the Government's policy and developed fiscally contained agreements that have achieved successful vote outcomes. In total, 63 Australian Government bodies have made new agreements which are consistent with the bargaining policy to date.

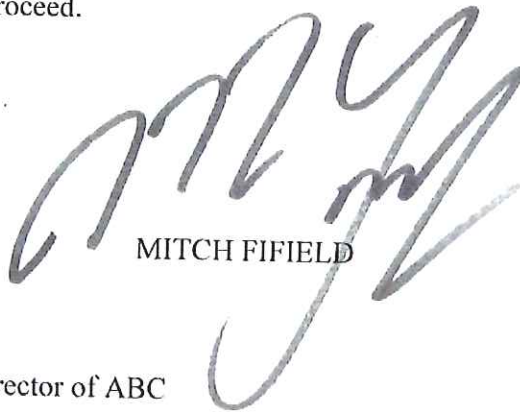
The Government was encouraged by the recent advice from the ABC's Managing Director on 5 August 2016 that the ABC's bargaining was progressing consistent with the Policy. However, since then an offer has been put to ABC staff that is at odds with this advice.

We ask for the Board's urgent advice about the circumstances which have led to this outcome and how the Board intends to proceed.

Yours sincerely



MICHAELIA CASH



MITCH FIFIELD

Copy to: Michelle Guthrie, Managing Director of ABC

14 OCT 2016



[REDACTED]

**From:** [REDACTED]  
**Sent:** Tuesday, 25 October 2016 4:57 PM  
**To:** [REDACTED]  
**Subject:** ABC EA Ballot outcome [SEC=UNCLASSIFIED]

**UNCLASSIFIED**

Hi [REDACTED]

I understand that the ABC EA ballot closes today. I was wondering if you could let me know the results when they are known.

Thanks in advance.

[REDACTED]

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26 October 2016



**ABC**  
Australian  
Broadcasting  
Corporation

**Senator the Hon Michaelia Cash**  
Minister for Women  
Minister Assisting the Prime Minister for the Public Service  
Minister for Employment

**Senator the Hon Mitch Fifield**  
Minister for Communications  
Minister for the Arts  
Manager of Government Business in the Senate

Office of the Chairman

ABC Ultimo Centre  
700 Harris Street  
Ultimo NSW 2007

GPO Box 9994  
Sydney NSW 2001

Tel. +61 2 8333 5135  
Fax. +61 2 8333 2967  
abc.net.au

Dear Senators,

I refer to recent correspondence regarding the ABC's Enterprise Bargaining process.

The ABC Act 1983 is clear. Sole responsibility for setting pay and conditions for staff rests with the ABC Board and the Board is discharging its responsibilities accordingly.

The Board has heeded its obligations under Section 8 of the ABC Act 1983 to have regard to Government Policy where requested. At all times during the enterprise bargaining process, the ABC Board and ABC Management have pursued the objective of delivering an outcome which is consistent with being an efficient and effective national broadcaster.

The Corporation was notified by the Australian Electoral Commission today that the proposed enterprise agreement has been approved by staff with a Yes vote of 71 per cent. Staff participation in the ballot was 68 per cent or 3,343, a record for the Corporation. It was achieved with no union support or endorsement for the offer.

As has been outlined in previous correspondence, the agreement will:

- Provide certainty for staff and the Corporation over the next three years
- Secure a modest pay rise while removing rigidities in the current agreement
- Set the foundations for more work to reposition the ABC in a volatile media landscape.

The ABC will proceed to lodge the agreement with the Fair Work Commission.

Yours sincerely



James Spigelman AC QC  
ABC Chairman



**ABC**  
Australian  
Broadcasting  
Corporation

Office of the Chairman

ABC Ultimo Centre  
700 Harris Street  
Ultimo NSW 2007

GPO Box 9994  
Sydney NSW 2001

Tel. +61 2 8333 5135  
Fax. +61 2 8333 2967  
abc.net.au

2 November 2016

The Hon. John Lloyd PSM  
Australian Public Service Commissioner  
Ground floor  
16 Furzer Street  
Phillip ACT 2606

Dear Mr Lloyd

**THE ABC AND THE COMMONWEALTH BARGAINING POLICY**

I refer to your public statement of 27 October 2016 asserting that the ABC is subject to the 2015 Commonwealth Workplace Bargaining Policy. No lawful basis for this assertion has ever been identified in any relevant communication from the Commonwealth Government to the ABC. It is the firm belief of the ABC Board that there is no lawful requirement to comply in this regard.

Section 78 (6) of the ABC Act is quite explicit:

"Except as provided by this section, or as expressly provided by a provision of another Act, the Corporation is not subject to direction by or on behalf of the Government of the Commonwealth."

There is one such provision in section 8(2) of the ABC Act. There is no *express* provision in the Public Service Act.

This statutory constraint on the Executive power to interfere with the independence of the ABC is reinforced by section 78 (7), which expressly exempts the ABC from the provisions of the Public Governance, Performance and Accountability Act, 2013 (PGPA Act) which permit the Government to require agencies to act in accordance with its policies. This provision, enacted by the Coalition Government, continues the statutory recognition of the ABC's independence from Government direction under longstanding predecessor legislation.



As you are aware, the ABC accepts that we have been advised of the Government policy reflected in the Workplace Bargaining Policy and, in accordance with section 8(2) of our Act, that we are obliged to give "consideration ... to that policy". The ABC has given such consideration.

At all times in its bargaining on a new Enterprise Agreement, the ABC has sought an outcome that is fair and reasonable for staff while consistent with the Board's responsibilities to deliver an efficient, effective and independent national broadcaster.

The ABC's determination to remove rigidities from the EA, consistent with the overall objective of Government policy, has been resisted by unions party to the agreement. After 26 weeks of fruitless negotiations and the threat of industrial action, the ABC bypassed the unions and put the offer directly to staff. The vote was an overwhelming endorsement of the deal and ABC strategy.

In a letter of 7 September 2016 addressed to the Managing Director of the ABC, Senator the Hon Michaelia Cash stated that the ABC "is required to comply" with the Policy. I replied on 7 October 2016 explaining why the ABC rejects that contention. In a further letter from Senator Cash and Senator the Hon. Mitch Fifield of 14 October 2016, the two Ministers referred to "the Government's expectation that the ABC would comply with the terms of the Policy". There was no assertion in this letter that the ABC was required to comply. I replied to the second letter on 26 October 2016. On each occasion I affirmed that the ABC had acted in accordance with its obligations under section 8(2) of our Act.

I note that in your statement you compared the ABC with SBS in terms of compliance with the Bargaining Policy. This is irrelevant. Under section 11 of the SBS Act, that organisation is subject to government policy direction, except with respect to content and scheduling of programmes. There is no equivalent of section 78(6) of the ABC Act. There is also no exemption for SBS from the power to direct compliance with policies under the PGPA Act. The statutory independence of the ABC cannot be compared with the position of SBS.

Your assertion of authority to control the internal staffing policies of the ABC, potentially in any aspect of the wide-ranging powers conferred on you by the Public Service Act, is a fundamental challenge to the independence of the ABC from Government interference.

Yours faithfully



James Spigelman  
Chairman, ABC Board



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2 November 2016

Senator the Hon Michaelia Cash  
Minister Assisting the Prime Minister for the Public Service  
Parliament House  
Canberra ACT 2600

Dear Minister

I attach a copy of a letter I have just sent to the Public Service Commissioner with respect to his public comments asserting that the ABC is required to comply with the Government's Workplace Bargaining Policy.

Yours faithfully

A handwritten signature in black ink, appearing to read 'James Spigelman', with a stylized flourish at the end.

James Spigelman  
Chairman, ABC Board



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abc.net.au

2 November 2016

Senator the Hon Mitch Fifield  
Minister for Communications  
Parliament House  
Canberra ACT 2600

Dear Minister

I attach a copy of a letter I have just sent to the Public Service Commissioner with respect to his public comments asserting that the ABC is required to comply with the Government's Workplace Bargaining Policy.

Yours faithfully

James Spigelman  
Chairman, ABC Board