



SBS submission to the Independent Review of the *Public Governance, Performance and Accountability Act 2013* November 2017

Introduction

SBS welcomes the opportunity to submit to the Independent Review of the *Public Governance, Performance and Accountability Act 2013 (PGPA Act)*.

SBS is unique in the Australian media environment. Its function is to provide multilingual, multicultural and Indigenous radio, television and digital media services that inform, educate and entertain all Australians and, in doing so, reflect Australia's multicultural society.

As a national free-to-air broadcaster, SBS reaches almost 100 per cent of the population through its free-to-air television services (SBS, SBS HD, SBS VICELAND, SBS VICELAND HD, Food Network and National Indigenous Television (**NITV**)), subscription TV channel World Movies and eight digital (DAB+) radio channels (including SBS Arabic24, SBS PopAsia, SBS Chill, SBS PopDesi and simulcast AM/FM stations).

Importantly, this reach is being significantly extended through SBS's digital services, including SBS On Demand and portals which make online audio programming and information—including essential migrant settlement information—available in nearly 70 languages other than English.

PGPA Act successfully introduced

The introduction of the PGPA Act and Rule was a very successful process, involving a high level of consultation and consideration of feedback provided by stakeholders. SBS was involved in various working parties prior to the introduction of the PGPA Act and our staff expressed satisfaction with the management of the process provided by staff of the Department of Finance.

The final PGPA Act and Rule were relevant, coherent and effective, and their introduction did not create any additional onerous obligations. This was an important issue for SBS, which was previously governed under the *Commonwealth Authorities and Companies Act 1997 (CAC Act)*.

The introduction of a universal, principles-based legislative framework for all Commonwealth public sector agencies has been a positive step in driving improvements in governance, performance and accountability.

In addition, the revised reporting format, including the Annual Performance Statement included in annual reports, has provided improved, meaningful reporting on an agency's performance.

To the extent that they impact SBS, we submit that the objectives of the PGPA Act, detailed in section 5, have been met.

Specific issues considered in this review

The Independent Review is seeking comments in relation to a number of specific issues. SBS sets out its comments in relation to these issues below.

Issue for comment

The impact of the new legislative framework including:

Consideration of the impact on small entities and previous *Commonwealth Authorities and Companies Act 1997* bodies, how these entities are managing under the new framework and whether adjustments should be made for smaller entities.

Examination of how Commonwealth entities work cooperatively with others (in 'joined up' government), as emphasised by the PGPA Act principles and objects.

SBS, as a previous CAC Act agency, has not been adversely impacted by the introduction of the new legislative framework.

SBS has actively pursued opportunities to work closely with other agencies for mutual benefit, in line with section 17 of the PGPA Act. For example, SBS, the Australian Broadcasting Corporation and the Department of Communications and the Arts recently cooperated in conducting tenders for several major transmission contracts including captioning and digital distribution which led to savings for the Commonwealth.

Issue for comment

Accountability and Governance, including examination of the timely and transparent advice provided to Parliament:

- reporting on contracts and consultancies in annual reports;
- the reporting of senior executive remuneration and changes to accounting standards while balancing parliamentary accountability;
- whether there would be benefit in bringing forward and potentially legislating an earlier annual report delivery and tabling date;
- requirements for and the role played by entity audit committees;

SBS submits that caution should be exercised in considering any requirements to report on contracts and consultancies in agencies' annual reports. It would not be appropriate to require publication of contract and consultancy details where this may:

- **Place agencies at commercial disadvantage compared with its competitors**—for example, in SBS’s case:
 - advertising contracts—disclosure of which would place SBS at competitive disadvantage compared with commercial competitors who are not required to disclose the rates they charge advertisers; and
 - content supply arrangements—disclosure of the value of which would place SBS at commercial disadvantage to other content purchasers (who may, in light of this information, counter offer at a higher rate than SBS in future negotiations with suppliers).
- **Unreasonably make public the employment arrangements of a large number of staff**—it being noted that disclosure of specific employment arrangements of staff, as contained in their employment contracts, would be an inappropriate intrusion into the personal affairs of the employees, and a talent retention risk for SBS (where competitors may be able to use this information to offer our staff higher rates of remuneration).

In accordance with the expectations of the Department of Prime Minister and Cabinet, SBS already provides de-identified executive salary information on its website and in addition voluntarily includes this information in its Annual Report. SBS considers that this existing reporting provides an appropriate level of transparency and would obviate the need to further require salary disclosure under the PGPA Act.

In relation to annual report deadlines, we submit that further details would be required in order to understand the potential benefits of an earlier delivery and tabling date. Considerable work and a reasonable time is required to prepare full annual reports for publication and tabling.

Any proposal to introduce an earlier date would need to be combined with a rationalisation in the amount of information required to be included in the report. Viability of an earlier reporting date would also be dependent on the availability of the Australian National Audit Office (**ANAO**) to enable its clearance of the financial statements to meet an earlier deadline.

The current legislative framework in relation to the composition and operation of audit committees has increased its value in improving the performance of Commonwealth entities—both in relation to financial and performance reporting and risk/fraud management. SBS considers the alignment of the audit committee framework for the public sector with the framework that applies in the private sector has been highly successful—and assists the effective participation of committee members in both public and private sector governance.

Issue for comment

The Commonwealth Risk Management Policy, including risk maturity in entities, the Commonwealth, executive government and the Parliament.

The risk management framework resulting from the PGPA Act and Rule has driven a major improvement in risk management practices in Commonwealth entities. The associated annual risk benchmarking program has also been a useful tool in allowing agencies to track their performance maturity levels.

Issue for comment

The enhanced Commonwealth performance framework, including:

Ongoing monitoring and public reporting of whole-of-government results for the framework.

Timely and transparent, meaningful information to the Parliament and the public, including clear read across portfolio budget statements, corporate plan, annual performance statements and annual reports.

The enhanced performance framework has provided a more logical and transparent system allowing monitoring and performance assessment (both financial and non-financial measures) of agencies against their objectives.

Issue for comment

Support provided to Commonwealth entities including:

Review of the PGPA Act and Rule guidance issued by the Department of Finance and others, including the Attorney-General's Department.

Consideration of other communication strategies such as Communities of Practice, utilised to support entities.

The introduction and implementation of the PGPA Act has been conducted in a professional and co-operative manner. The quality of the resulting guidance material is excellent and accessible. SBS has attended the Community of Practice sessions and places a high value on their ongoing usefulness.