



The Representative Organisation of Australian Jewry



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Australia

9 December 2021

John McMillan and Jim Carroll

Reviewers

ABC Complaints Review

Email: abccomplaintsreview@abc.net.au

Dear Reviewers

Re: Review of ABC Complaint Handling

The Executive Council of Australian Jewry (ECAJ) makes the following submission to the Review of ABC Complaint Handling in response to its invitation for public comments and submissions on the issues being considered. The ECAJ is the peak, elected, representative body of the Australian Jewish community. This Submission is also made on behalf of the ECAJ's [Constituent and Affiliate organisations](#) throughout Australia.

Executive summary

Whilst the ABC must remain independent of political interference, being independent is not the same thing as being a law unto itself. The ABC has at times been used in various ways by some of its staff to promote their own highly-contentious views, and they have been protected from being fully held to account by an inadequate complaints system. The ABC complaints unit, known as ABC Audience and Consumer Affairs, describes itself as "*a unit which is separate to and independent of program making areas within the ABC*". Yet its personnel are all ABC employees, and subtle forms of influence through a shared organisational culture and personal interaction are almost inevitable. In practice, as the examples provided in this submission demonstrate, the complaints unit has dismissed or inadequately dealt with an inordinately high proportion of complaints, even when identical or similar concerns have been raised independently by multiple complainants. The terms in which complaints have been dismissed have at times been cavalier, formulaic and capricious, with a failure to engage in the substance of matters raised by complainants, or to apply community standards of elementary fairness. The current complaints system has thus demonstrated that it is not fit for purpose. **To be truly independent and at arm's length, the complaints process must be external to the organisation, as is the case in other sectors of public and corporate life in Australia.**

Part I – Specific cases

This Part of our submission is directed towards the following Terms of Reference of the Review:

- 2. the suitability of the ABC complaint process for receiving and managing complaints relating to ABC editorial standards*
- 4. whether complaints relating to ABC editorial standards are dealt with efficiently, fairly and reasonably*
- 5. whether appropriate actions are taken and remedies provided for breaches of ABC editorial standards*
- 7. measures taken by the ABC to ensure that the complaint process is tied to continuous improvement in ABC editorial standards, and feeds into standards-setting, training and day-to-day content-making*

In recent years our organisation has lodged formal complaints with the ABC over biased, selective and inaccurate news reports concerning Israel; failure to provide essential context to such reports; misrepresentation of Judaism and Jewish beliefs and practices; and tolerance of egregiously antisemitic comments which have been posted on the ABC's Facebook pages. We have also complained about the skewing of audiences and, less frequently, panels on the Q + A program. Even when our complaints have been upheld, corrective action by the ABC has been slow to occur, appears to have been half-hearted, has failed to prevent a recurrence of similar issues in later publications and programs, and has failed to come to grips with the pervasive culture within parts of the ABC which are predisposed against Israel, regardless of the facts of any particular story.

As early as 16 November 2015, we had an [opinion piece](#) published online on the ABC Religion and Ethics Report website, which outlined this sorry history. The piece also analysed the inadequacy of the ABC's Complaints processes and called for a completely independent Ombudsman outside the ABC to be appointed on a cross-partisan basis by parliament through a public selection process, to monitor public broadcasting, assess complaints about its news, current affairs programs and documentaries and report regularly to the Australian people.

The following specific cases are merely illustrative of the shortcomings in the ABC's handling of complaints. The list is by no means exhaustive, and does not cover every topic about which we have complained.

1. The 'Q + A' episode on 27 May 2021

The ABC TV's 'Q + A' episode '*Trauma and Truth-Telling*' went to air live on 27 May 2021. The five guest panellists discussed the hostilities that had broken out between Israel and Hamas earlier that month. Many aspects of the episode were deeply problematic.

- There were two Muslim Australians on the panel, Ed Husic MP and Randa Abdel-Fattah, but no Jewish Australians. Ms Abdel-Fattah has [her own page](#) on the Q + A section of the ABC's website, which describes her as "*a Muslim of Palestinian and Egyptian heritage*". (In contrast,

we are not aware of any ABC website page that profiles any representative of the Jewish community). We were informed by the Israeli Ambassador that he was approached by the program organisers, but they would only offer him the possibility of participating in the audience and asking a question from the floor. Understandably, he declined to be relegated to mere audience participation and without any right of reply, instead of being afforded equal status to Israel's critics. Our co-CEO Alex Ryvchin was then approached to participate on the same basis, and he too declined for the same reasons. The Jewish community, unlike the Palestinian community, was denied a representative voice on the panel.

- There was a gross imbalance of views represented on the panel. Four of the five panellists were critical of Israel, and only one, Dave Sharma MP, attempted to provide a good-faith balanced analysis of the conflict. Ms Abdel-Fattah was allowed to hold forth on more than one occasion with a prolonged torrent of vitriol directed against Israel, without interruption, let alone correction, by the ABC's presenter, Hamish Macdonald. She alleged falsely that Israel engages in terrorism. Human rights lawyer Jennifer Robinson was similarly one-eyed in her comments. Ms Abdel-Fattah criticised the very existence of the state of Israel, describing it as a settler apartheid state. Ms Robinson agreed with her. Actor and performer Mitch Tambo admitted that he knows little about the subject, but nonetheless expressed sympathy for that view. Mr Husic presented a more moderate voice, albeit one that spoke in support of the Palestinian side. Only one of the five panellists, Dave Sharma MP, attempted to provide a good-faith balanced analysis of the conflict, swimming against the tide, and trying to put the other side of the argument, despite repeated interruptions. As noted by author Gerard Henderson in an [editorial](#) for the Sydney Institute, during the Israel-Hamas segment Dave Sharma had 20 per cent of the speaking time, as against Randa Abdel-Fattah (27 per cent), Jennifer Robinson (21 per cent), Ed Husic (19 per cent) and Mitch Tambo (13 per cent).
- Jewish community representatives were also denied a voice from the audience, despite the fact that our community was especially affected by the subject matter (the conflict was accompanied by a [worldwide upsurge of antisemitism](#)). The two Jewish questioners who were selected by the program organisers were not representatives of the Jewish community. In fact, a representative of the Jewish community who was present in the audience and whose question had been pre-approved by the program organisers was passed over.
- The selection of tweets from the audience that were screened was similarly skewed. We were informed by a number of people that they had posted tweets supporting Israel or critiquing the Palestinian arguments, but these were all excluded.

We received messages from a number of people who said that they had complained in writing to the ABC about bias in connection with the program. Most of the complaints seem to have invoked Part 4 (Impartiality and diversity of perspectives) of the ABC Code of Practice 2019. Several of the complainants emailed us a copy of their complaint, and of the response they had received from ABC Audience and Consumer Affairs. The full text of each of the responses sent out by the complaints unit (they seem to have been identical or nearly identical to multiple complainants), is set out in the [editorial](#) about the segment by Gerard Henderson referred to above.

- **Inadequacies of the response from ABC Audience and Consumer Affairs**

The response described Ms Abdel-Fattah's comments as a "*criticism of aspects of Israeli government policy*". That is a gross mischaracterisation. No reasonable person could have interpreted her description of Israel as a "*settler apartheid State*" as anything other than a rejection of Israel's very legitimacy as a State, and hence of its right to exist.

The response also asserted that the Q + A panel (that was skewed 4:1 towards one side of the debate) was sufficiently balanced: "...we are satisfied that a range of principal relevant perspectives were presented on the issue **and that no one view was unduly favoured over any other** (emphasis added)." Complainants who contacted us were uniformly of the view that this response flies in the face of basic standards of equity and fairness, and was outrageous in its condescension. We share that view.

The response did not address directly the questions of why the Israeli Ambassador was merely offered audience participation without any right of reply, instead of being afforded equal status to Israel's critics; why "*a Muslim of Palestinian and Egyptian heritage*" was given a place on the panel (and a disproportionate share of speaking time without interruption) while no such opportunity was offered to a representative of the Jewish community; and why audience tweets that were critical of the statements of Ms Abdel-Fattah and Ms Robinson were excluded from being displayed on-screen.

For these reasons the response starkly demonstrates the shortcomings of the ABC's complaints process. It was a cavalier dismissal of genuine and widespread expressions of public concern about the episode. It mischaracterised some of the complaints and failed to address others. The entire incident suggests that the ABC as an organisation closed ranks in the face of a storm of well-founded community criticism in order to protect its own.

2. ABC 'Explainer' piece about the Israel-Hamas conflict in May 2021

On 14 May 2021, the ABC website published what appeared to be an ABC-endorsed piece by Emily Clark entitled '[An attempt to explain why explosions are again filling the skies over Israel and Gaza](#)'. The piece contained serious factual and historical errors and parts of it were argumentative rather than analytical.

Putting to one side the patent errors, the piece was at best the author's personal perspective about which parts of the history of the conflict and of contemporary events are significant, and which are not. Readers were given a selective, one-sided picture of both the history and the unfolding situation, and may well have been left with the false impression, from the way the piece was presented on the ABC website, that they were reading an authoritative, impartial and reliable analysis endorsed by the ABC.

We promptly emailed the ABC News Director, Gaven Morris, to alert him to the problem, and provided him with a detailed [point by point rebuttal](#).

Some of the more egregious errors in the piece were then removed on May 16, but most of those who read the article probably did so in the two days after it first went online, and before the corrections were published.

We pursued this matter as a formal complaint with the ABC Audience and Consumer Affairs Unit, and on 3 June 2021 we submitted a second point by point rebuttal of errors and material omissions in the amended piece, although by that time the damage of the article in the public domain had already been done.

We received the ABC's response to our complaint on 9 July 2021. It advised that a second round of amendments had been made to the 'Explainer' in response to three of the matters in our complaint. Another nine specific matters which we raised about omission of relevant contrary facts to those asserted in the 'Explainer' were dismissed.

The [final version](#) of the 'Explainer' remains a flawed personal view of a single author, even though it remains on the ABC website, to all appearances as an ABC-authorized perspective. It compares poorly with [a piece published by the BBC](#) on the same subject, which came much closer to a genuine good-faith analysis.

- **Inadequacies of the response from ABC Audience and Consumer Affairs**

As regards the nine dismissed items of complaint, the ABC did not contest the accuracy or significance of any of the historical facts which we provided whose omission we complained of. Instead, the response stated "*it is not possible to include all detail of the history of this region in one article*". Our complaint did not ask for "all detail of the history" to be provided. Our request was confined to the inclusion of details which were material to matters which were addressed in the 'Explainer', and whose omission left readers with a misleading rendering of those matters.

In its response to one of those nine items, ABC Audience and Consumer Affairs itself seemed to adopt and embrace one of the contentions in the 'Explainer' about which we were complaining.

The 'Explainer' had stated: *'The partition and subsequent war resulted in displacement of hundreds of thousands of Palestinians.'*

We complained: *'It was not the UN partition plan, but rather the Arab leaders' resort to force to prevent its implementation, which resulted in the displacement.'*

ABC Audience and Consumer Affairs responded: *'While noting your comments, we are satisfied that the summary provided in the story is not materially misleading. Partition preceded and led to war, and the result was displacement of a great many Palestinians.'*

Both ABC Audience and Consumer Affairs and the author of the 'Explainer' erroneously conflated the act of partition with the UN General Assembly's endorsement of a partition plan.

Under the UN partition plan, none of the local inhabitants, Jewish or Arab, was required to relocate or be displaced. The plan made extensive provision for the protection of the Jewish minority in the envisioned Arab State and of the Arab minority in the envisioned Jewish State. Nevertheless, **the partition plan was never implemented**, because Arab leaders resorted to the use of force with the openly declared aim of **preventing** the plan's implementation.

Ultimately, it was the war initiated by Arab leaders to *prevent* partition which *resulted* in partition. A *de facto* partition was put into effect by the armistice agreements entered into between Israel and neighbouring Arab States when the war was concluded. Partition did not precede and lead to war, as contended by the ABC complaints unit, but on the contrary it was the war which brought about partition. By going to war to prevent a UN-authorized partition that would have occurred without mass displacement, Arab leaders brought about a partition in which civilians on both sides were displaced, including more than 700,000 Palestinians.

ABC Audience and Consumer Affairs thus became a partisan in the debate about the events of 1947 and 1948, instead of an impartial arbiter. Worse, it became a partisan on the wrong side of the verifiable historical facts.

Finally, we complained that the Editor's Note that was added at the end of the 'Explainer' after the first round of amendments did not acknowledge that errors had been made in the original piece, or that they had been corrected following complaints.

In response, the Editor's Note was amended and now reads:

Editor's Note, 16 May 2021 and 8 July 2021: An earlier version of this story was changed to clarify certain points, correct some errors and simplify the summary of the region's history. The story was later updated to include reference to a series of assaults on Jews by Palestinians which preceded the "death to the Arabs" march on April 22.

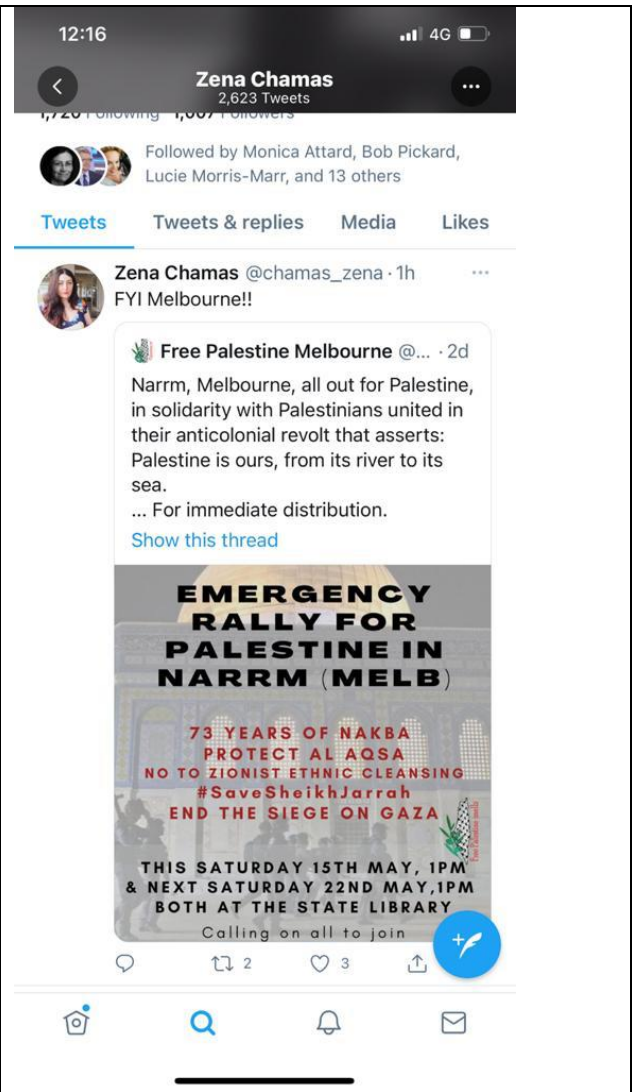
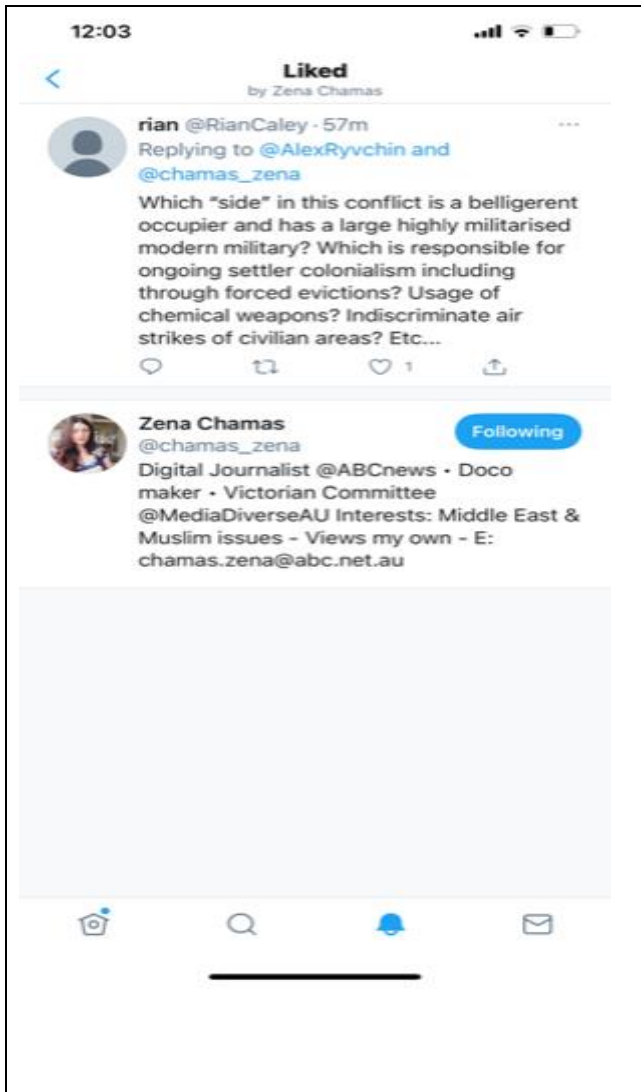
The acknowledgement of error was belated but nonetheless welcome. However, there is still no acknowledgement that the earlier versions of the piece were changed in response to audience complaints, including our own.

3. Complaint to ABC Chairman and Managing Director

Our concerns about the Q + A episode and the ABC's news and current affairs coverage relating to Israel were the subject of a letter we sent to the ABC Chairman and Managing Director on 31 May 2021.

In that letter we also noted that one [ABC journalist](#) had become an open activist for the Palestinian cause on Twitter, including by endorsing pro-Palestinian rallies that used terms such as "Zionist ethnic cleansing" in their flyers. In one tweet the journalist described herself as an "ABC News Doco Maker" and 'liked' a comment falsely accusing Israel of using "chemical weapons" and "indiscriminate air strikes", as well as "settler-colonialism". In the other she posted a pro-Palestinian slogan, declaring "Views my own", and then providing her ABC email address.

Two tweets are reproduced below.



In our letter of complaint we wrote:

“Overall, in the news and current affairs treatment of Israel and other matters of concern to the Jewish community there has been a systematic violation of Part 2 (Accuracy) and Part 4 (Impartiality and diversity of perspectives) of the ABC Code of Practice 2019, over many years. Given the long-running, systemic nature of these violations and their entrenchment in the ABC’s culture, we submit that these matters go well beyond the remit of ABC’s Audience and Consumer Affairs Unit and need to be addressed by the ABC Board.”

We sought a meeting with the ABC’s chairman and Managing Director. We met with the Managing Director, David Anderson, on 21 June 2021. We appreciated the candid and cordial discussion which took place, and the Managing Director’s agreement to consider specific steps, most of which he himself put forward, in order to overcome the underlying attitudes that have so tarnished the ABC’s approach, and which have repeatedly disenfranchised our community and disadvantaged Israel in the past.

We sent a further letter to the Managing Director the following morning confirming those steps, and looking forward to hearing further about them. Without going into the detail of those steps, we also issued a media release to report to our community about the meeting, as we had foreshadowed we would to the Managing Director, without any objection on his part.

- **Inadequacy of the response from ABC**

Regrettably, the only response from the ABC was a media release on 23 June 2021 in effect resiling from any suggestion that there was anything substantially wrong with anything it had done, or the need for corrective action. It accused us falsely of having misrepresented what had transpired at the meeting. To date, we have had no reply to either of our letters.

4. ABC Radio interview with Rev. Dr Stephen Sizer 30 March 2018

An interview of UK Anglican cleric, Rev Dr Stephen Sizer, by journalist, David Rutledge, was aired on RN Breakfast on 30 March 2018, which coincided with Good Friday, and the eve of the Jewish festival of Pesach (Passover).

Sizer had participated as a speaker at the 2014 ‘New Horizon’ conference in Tehran, which was backed and supported by the Iranian regime and featured leading Holocaust deniers, conspiracy theorists, and BDS activists from around the world: <https://www.memri.org/reports/second-international-new-horizon-conference-tehran-draws-leading-holocaust-deniers>.

In 2015 Sizer had published a Facebook post which blamed Israel for the terrorist attacks in the United States on 11 September 2001. Although David Rutledge asked Sizer about these matters during the interview, he did so in a generally supportive way from the outset, which resulted in a soft interview that allowed Sizer’s self-serving, inaccurate answers to pass unchallenged.

For example, David Rutledge allowed Sizer to get away with claiming that none of the speakers at one of the conferences he addressed in Tehran in 2014 were criticised as antisemitic. In fact, as was reported at the time, the Iranian government-run Press TV described the conference as intending to “*unveil the secrets behind the dominance of the Zionist lobby over the US and EU politics*”, with one session devoted to examining “*Mossad’s role in the 9/11 Coup d’Etat*”, and another discussing “*9/11 and the Holocaust as pro-Zionist ‘Public myths’*”.

The audience was not informed that the link which Sizer posted on his Facebook page in 2015 was to an article entitled “*9/11 Israel did it*”, and that Sizer later publicly apologised for posting it. There was no mention of the fact that Sizer’s Church in the UK had been so embarrassed by his public statements about Israel that it had extracted an undertaking from him to stop commenting on the subject while he remained a vicar, an undertaking which Sizer subsequently broke. Nor was it put to Sizer, or explained to the audience, that the Board of Deputies of British Jews had described Sizer’s 2015 Facebook post as “*unquestionably anti-Semitic*” and the Church of England had voiced “*sorrow and shame*” at what he had done.

Worse still, David Rutledge took it upon himself to tell Sizer “*I accept you are not an antisemite*”, instead of allowing the audience to draw its own conclusions.

In a letter to the then ABC Managing Director, Michelle Guthrie, on 5 April 2018, our organisation made a formal complaint about these aspects of the interview. Stories about our complaint appeared in the mainstream media. (For example, Michael Koziol, '[ABC under fire for Passover interview with anti-Israel conspiracy theorist](#)', *Sydney Morning Herald*, 4 April 2018; and Stephen Johnson, '[Jewish leaders demand an apology from the ABC after 'soft' interview with a British writer accused of anti-Semitism and 'anti-Israel'](#)' conspiracy theories on Passover', *Daily Mail*, 4 April 2018).

Our principal points of complaint about the Sizer interview were upheld and the ABC apologised. In its letter to us dated 22 May 2018, ABC Audience and Consumer Affairs stated:

“The interview included information to indicate that Dr Sizer holds controversial views; is a critic of Israel; at times has been accused of anti-Semitism and that his activities could be used by explicitly anti-Semitic groups. However, Dr Sizer’s mischaracterisation of the Tehran conference which was not challenged or corrected in the interview, together with the lack of information on his repeated censure by his Church was not in keeping with the ABC’s editorial standard for accuracy: the interview did not present these issues with the necessary material context.” *“The program has appended an Editor’s Note to the website and provided relevant links to further information (<http://www.abc.net.au/radionational/programs/breakfast/good-friday-8:05/9601212>). The ABC apologises for this lapse and would like to assure you that this finding has been discussed with the program area and RN management, and a summary will be published on the ABC website”.*

The following note was added on the page of the ABC website which relates to the program on ABC RN on which the interview was aired:

“NOTE:

Presenter David Rutledge acknowledged to the audience that Dr Sizer’s views are controversial, that he has been accused of anti-Semitism and that he attended a conference in Tehran in 2014, which has been criticized for including speakers with anti-Semitic affiliations. However, the ABC accepts that the interview did not provide sufficient context for listeners to adequately understand the extent of the controversies. The ABC acknowledges that the Tehran conference did include anti-Semitic elements, and information on the Anglican Church’s censure of Dr Sizer can be found here.”

- **Inadequacies of the response from ABC Audience and Consumer Affairs**

In commenting on the ABC response, we welcomed the ABC’s acknowledgement of inaccuracies and omission of material context, and its apology, but added:

“Sadly, this will come too late to undo the false, indeed poisonous, impressions given to many ABC listeners to the program who heard the interview but will not be aware of the ABC’s admission of error and apology”.

“The ABC has also failed to appreciate the gravity of the wrong done when David Rutledge took it upon himself to tell Sizer, and the audience, “I accept you are not an antisemite”, instead of allowing the audience to draw its own conclusions. The ABC has pointed to David Rutledge’s academic qualifications and said that the ABC’s editorial standards permitted

him to provide his own analysis. However, David Rutledge provided no analysis at all, only his own unsupported assertion. There is a big difference."

We also criticised the ABC's failure to address specifically our complaint that *"the ABC audience is surely entitled to know what Christian Zionism is from the point of view of a knowledgeable and articulate exponent, not merely from the point of view of a harsh and discredited critic"*. To the best of our knowledge, the ABC has given no air-time to such a perspective to this day.

5. Complaint about ABC News Facebook page - August-September 2016

In August 2016 a story appeared on the ABC News Facebook page about students at a Jewish school in Melbourne who were collecting for display a million and a half buttons in remembrance of the 1.5 million Jewish children who were slaughtered in the Shoah. A second story appeared on 9 September 2016 and concerned students from the same Jewish school in Melbourne who had visited a Christian school in Alice Springs. It happened to be book week and the host students put on a book parade. One student dressed up as Hitler, and received one of the "best dressed" commendations from the school. The principal of the Christian school subsequently apologised for the incident.

The appearance on the ABC News Facebook page of stories about these events elicited a torrent of crudely antisemitic posted comments from readers. The following is only a small sample of them:

- "If hitler was sellig new ovens on an crowdfund site tomorrow id probably donate."*
- "i literally want to put you in an oven bro. You are a filthy lieing land thief."*
- "jews deserve every thing they get haven't heard any aussie jews speak out about the mass murdering Zionist scum jews in Israel"*
- "the Jews next. This iss not their country either they accept or get out of this country."*
- "every Jew should be viewed with suspicion and contempt until one knows that they prove to be different from their peers. I.e. A benefit of the doubt should NOT apply to them at all."*
- "this whole war was a hoax .100000 perished not 6 million ..most of these where not Jews .History books are a lie ...but hey if you control the media like jews do anything goes"*
- "Jesus. [...] He was the one they Crucified because he threw the money lenders out of the Temple."*
- "Should have dressed up as a giant golden coin for the Jews instead. Would have annexed and sold him at interest quicker than you can say he was an obedient goy and dindu nuffin."*
- "History is a lie written by Jewish bankers and sold by their puppet politician who help sell the lies."*
- "stop exploiting the holocaust"*
- "How long are they going to use the holocaust horror stories. This was then, the genocide of Palestinian is now."*
- "Typical of Jewish organisations, charity is only collected for Jewish causes ... the Holocaust the only significant event in world history.....no wonder they make themselves the target of resentment."*
- "Was a great injustice what they did to hitlers name."*

A much smaller number of posted comments from other readers expressed dismay and disgust at the antisemitic posts.

Despite the appearance of these comments, and the fact that one of the people who expressed dismay and disgust actually tagged ABC News Digital, the moderators of the ABC News Facebook page took no action for days or weeks to remove the antisemitic posts. It was only when our Research Officer published an [opinion piece](#) about this failure on the ABC Religion and Ethics Report website that ABC News Digital belatedly took action.

The ABC also appended a note at the end of the opinion piece seeking to justify its conduct. This was done on 23 September 2016, and read as follows:

“Statement from ABC News Digital: “The ABC News Facebook page has more than 2 million fans and receives an average of 400 comments on each post, with comments made 24 hours a day, 365 days a year. Facebook offers no capacity to turn off comments, or moderate comments before they appear on the page. In line with ABC policy, Facebook comments are moderated sensitive to ‘the expectations, customs and conventions of existing users’. The article about the buttons attracted 429 comments, while the one about the boy dressing up as Hitler attracted 3,907 comments. As Ms Nathan notes, many comments expressed dismay and disgust at the anti-Semitic posts. Once the ABC was alerted to the offensive comments in question, they were removed.”

- **Inadequacies of the response from ABC News Digital**

The removal of the antisemitic comments occurred too slowly to mitigate the damage done by their publication. Their removal by the ABC appears to have been prompted by the adverse exposure of the ABC’s inaction resulting from the publication of Ms Nathan’s article. Despite the assertion of ABC News Digital that “*Once the ABC was alerted to the offensive comments in question, they were removed*”, some of the posted comments that had been quoted in the opinion piece, and a number of other egregiously antisemitic comments, still remained online.

6. Complaint about ABC news reports of Sophie O’Neill

While she was a reporter with the ABC, Sophie McNeill’s stories about Israel and its conflict with the Palestinians were often the subject of criticism and complaints by our organisation, among others. One example was a story entitled ‘[Gaza’s border crossing opens to sick Gazans](#)’ (later re-named ‘Rafah border crossing opens to sick Gazans seeking medical treatment in Egypt’, which went to air on ABC TV’s *7:30 Report* on 15 June 2016. Ms McNeill stated as a fact (rather than as merely her opinion) that the purpose of Israel’s naval blockade of Gaza is to “punish” Hamas. She did not mention that an independent UN-commissioned inquiry headed by New Zealand’s Sir Geoffrey Palmer had found that the blockade is a “*legitimate security measure [not a form of punishment] in order to prevent weapons from entering Gaza*” given the “*real threat to Israel’s security from militant groups in Gaza*”: [Report of the Secretary-General’s Panel of Inquiry on the 31 May 2010 Flotilla Incident, July 2011](#).

The report also implied that the Israeli government heartlessly and needlessly prevents Gazans from obtaining medical and hospital treatment outside of Gaza. It made no mention of the family members of Hamas political leaders and terrorist commanders over the years who have been [treated in Israeli hospitals](#), or of the 15,000 tonnes of supplies including food, medicines and medical equipment, which are transported into Gaza each week, via Israel’s border crossings in co-ordination with both international aid organisations and Gaza’s private sector. Nor did the report mention that Hamas has at times [diverted](#) such

supplies away from the use of the Gazan people who need them and commandeered the supplies for illegal uses.

We lodged an online complaint about these matters immediately after the program went to air. The response from ABC Audience and Consumer Affairs came almost two months later on 11 August 2016. The response either did not accept or failed to address the specific matters raised in our complaint. However it concluded:

“Separate to your complaint, our review confirmed an inaccurate reference to the “occupied territories” in the online subheading of the report’s transcript, which has been removed. The program also accepted the presenter’s claim in her introduction, that it is “almost impossible” for anybody to get out of Gaza for “urgent medical treatment”, was inaccurate. ABC News management has explained that reference in the report’s introduction was written in Sydney, and was not written by the reporter Sophie McNeill.

An editor’s note has been posted on the program’s website acknowledging these errors, and they have also been identified on the Corporation’s corrections and clarifications page.”

- **Inadequacies of the response from ABC Audience and Consumer Affairs**

The ABC response pointed to the fact that the report had mentioned Hamas’s cross-border rocket attacks into Israel and thus acknowledged the security threat posed by Hamas to Israel. It also showed an Israeli spokesperson saying *“Sometimes we have a security issue or security indication that we can’t allow these movement into Israeli territory.”* The rocket attacks are indeed a threat to Israel, but mentioning the rocket attacks did not of itself indicate that many of the rockets have been smuggled into Gaza and that the blockade is primarily directed at preventing this smuggling of weaponry and munitions, as the Palmer Inquiry had found. It is not simply a matter of suggesting in vague and general terms that Hamas poses a serious threat to Israel’s security, or even of referring to rocket attacks. The story was about the blockade, its alleged causes and effects. In that context, the precise internationally unlawful activities of Hamas at which the blockade is directed, and the fact that the blockade was found by a UN-commissioned inquiry to be a legitimate measure of self-defence were relevant and material, and their omission left viewers with a selective and misleading portrayal of the situation.

Similarly, the Israeli spokesperson in the story was quoted as mentioning *“a security issue or security indication”* in general terms as a reason for closing the border, but viewers were not told the precise nature of the “security issue”. The effects of the border closure were described in detail. The reasons for the closure were not.

UN official Robert Piper was shown in the story to express his opinion that Israel’s border closure amounts to the collective punishment of Gazans. If the ABC found it necessary in a current affairs report, to air this opinion, it was under an obligation to present the contrary published opinion of Sir Geoffrey Palmer, who led the UN-commissioned inquiry, and whose qualifications to express a legal opinion on that issue are greatly superior to those of Piper. Indeed, this was the central flaw of the whole segment. The ABC unmistakably skewed an ostensibly objective current affairs report, so as to support the polemical claim that Israel’s blockade of Gaza is an act of collective punishment, and to downplay or minimise the contrary - and authoritative - view that it is a legitimate act of self-defence.

7. Complaint about ABC Facebook pages – “Stone Cold Justice” program, February 2014

Our organisation had a serious dispute with the ABC following the airing of the episode entitled ‘*Stone Cold Justice*’ on ABC TV’s ‘Four Corners’ program on 10 February 2014. The program made many claims, most of them uncorroborated, about Israel’s alleged mistreatment of Palestinian minors in the West Bank, accompanied by heart-wrenching footage, but omitted vital context, and much contradictory evidence, which only came to light later.

However, our dispute with the ABC was not ultimately about the episode itself. It was about the numerous expressions of raw anti-Jewish hatred which the episode elicited, most notably as comments posted on the ABC’s own Facebook pages, and the fact that the moderators of the ABC’s ‘Four Corners’ Facebook pages had left those comments undeleted and un-moderated for several days (and eventually, in the case of some of the comments, for several weeks).

Our Research Officer, Julie Nathan, had a piece published in *The Weekend Australian* on February 22, providing numerous examples of the comments in question. Many of the comments were still accessible on the ‘Four Corners’ Facebook pages at the time the article appeared. The article concluded:

“Is there a line to be drawn between the factually selective and emotive content of the Four Corners program, “Stone Cold Justice”, and the laxity of the ABC’s moderators on Facebook in tolerating racism from those responding to the program? The ABC has a case to answer.”

Ms Nathan’s article referred to 18 antisemitic posts. Eight of them were deleted - after having remained online for a number of days - before her article was submitted on 19 February 2014, but 10 remained online. Of those 10, 8 were deleted only after Ms Nathan’s article was published on 22 February 2014.

The ABC appeared to go into denial. Sue Spencer, the then Executive producer of Four Corners, had a letter published in *The Australian* on 24 February 2014 in which she denied the charge that antisemitic comments had remained accessible on the Four Corners Facebook page for more than one week. She claimed that “*moderating has occurred on a daily basis since the broadcast*“. She assured readers that “*all that is possible is done to ensure that offensive posts are deleted as soon as possible*”.

In point of fact, many of the “offensive posts” like the one about Jesus being “*crucified by the jewish officials*” (posted on February 11) or calling Judaism “*a very ugly religion hiding behind a false conception of god*” (posted on February 10) remained accessible on the ‘Four Corners’ Facebook page **at the time Ms Spencer’s letter was published in *The Australian*, and for some time afterwards**. Several letters were subsequently published in *The Australian* pointing out this fact. Several more of the offensive posts were subsequently removed by the ABC.

The ECAJ wrote individually to each of the Directors on the ABC Board to complain about (i) the failure of the ABC to moderate its Facebook page adequately to prevent it being used to promote racism; and (ii) the untrue and misleading comments in Ms Spencer’s letter in *The Australian*. We also provided the Directors with a Table listing the antisemitic comments, the date each comment

was posted, the date it was removed (if at all) and the duration each comment had been accessible on the 'Four Corners' Facebook Page.

The ABC's then Managing Director, Mark Scott, responded to our complaint by letter dated 11 April 2014. All of the content complained of was eventually removed. The Managing Director said that the ABC "*will ensure an additional moderator is made available in future when comments are invited on highly contentious issues*".

- **Inadequacies of the response from the ABC**

The removal of the antisemitic comments occurred too slowly to mitigate the damage done by their publication. Their removal by the ABC appears to have been prompted by the adverse exposure of the ABC's inaction resulting from the publication of Ms Nathan's article in *The Australian*. This ABC-produced documentary has since become something of an icon for antisemites. See: ECAJ Report on Antisemitism in Australia, 2014 – pp 164-166 and ECAJ Report on Antisemitism in Australia, 2015 – pp 167-171. Accessible via <https://www.ecaj.org.au/antisemitism-report/>

The letter from the ABC's Managing Director said he was "*satisfied that both Four Corners and ABC TV acted in good faith at all times and proved a willingness to quickly remove the offensive posts from their Facebook pages as soon as they became aware of them*". The ABC never acknowledged that the statement made by Sue Spencer in her letter to *The Australian* was false and misleading. It can be seen that the ABC avoided even addressing that issue.

This was not the first time that the ABC had been lax in allowing hate messages to be posted on its Facebook pages. In October 2013, following a complaint by our organisation, the ABC apologised for antisemitic comments posted on another of its Facebook pages after the screening on ABC TV of another documentary about life on the West Bank that was harshly and unfairly critical of Israel, *Five Broken Cameras*. The ABC should thus have been much more pro-active in anticipating the antisemitic wave of posted comments elicited by the airing of *Stone Cold Justice*.

Part II – Availability of a referral to the Australian Communications and Media Authority (ACMA)

This Part of our submission is directed towards the following Terms of Reference of the Review insofar as they relate to the final element of the ABC's complaint process, namely the right of a complainant to take a complaint to ACMA if dissatisfied with the ABC's response or lack of response:

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| <p><i>4. whether complaints relating to ABC editorial standards are dealt with efficiently, fairly and reasonably</i></p> <p><i>5. whether appropriate actions are taken and remedies provided for breaches of ABC editorial standards</i></p> |
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In our view it is not sufficient that at present a dissatisfied complainant may refer the matter to the ACMA. The ACMA lacks the time, resources and expertise to do the job effectively. The ACMA has responsibilities under a variety of Acts and several hundred other legislative instruments dealing with a wide range of matters. It does not have any specialist expertise that would give it the insight to make a finding about the prevailing news and current affairs culture on any particular topic.

Further if the ACMA upholds a complaint, it may only **recommend** to the ABC that it take action to comply with its editorial standards, or to publish an apology or retraction. The ABC is not obliged to take any such action.

Another limitation from a complainant's perspective is that the ACMA's role does not extend to ABC print or digital content.

Finally, pursuing an appeal to the ACMA would require an inordinately onerous commitment of time and resources by the complainant, who may be a private person or organisation unable to match the resources of a publicly-funded corporation.

Part III – Principal recommendation

Reforming the ABC's complaints process in order to make it truly independent, is both necessary and urgent. Other areas where independent review of complaints is valued, such as financial services ([Australian Financial Complaints Authority](#)), telecommunications ([Telecommunications Industry Ombudsman](#)) and the Australian Tax Office ([Inspector-General and Taxation Ombudsman](#)), have external complaints schemes with an independent Ombudsman or Inspector, and review processes. Only a complaints process which is wholly external to the organisation can be truly independent and at arm's length. As the recipient of public funds, the ABC should have a similar external complaints process, and when complaints are upheld the complaints adjudicator should be empowered to direct the ABC to provide specific, timely redress. This would also assist in re-establishing public trust in the ABC, which many members of our community have lost.

Whilst we are not recommending that Australia adopt the system of any other country for handling complaints made against its public broadcaster or broadcasters, it is worth noting that in Canada, among other western democracies, complaints are handled by an entirely external independent Ombudsman. In the UK, complaints against the BBC are dealt with internally, but a dissatisfied complainant can take the matter to the public communications regulator, Ofcom, which has the power to direct the BBC to provide specific redress and to impose heavy fines.

Finally, it is essential in our view that, in addition to responding to individual complainants, the Ombudsman should be required to provide an annual public report which includes de-identified statistics about the number of complaints received, upheld, dismissed or otherwise resolved, and which notes patterns of systemic bias or other failings arising from complaints which have been upheld or conceded by the ABC. The report should include recommendations to the ABC about steps to be taken to prevent a recurrence of these shortcomings. In the following year's report, the Ombudsman should assess whether and to what extent recommendations made in previous reports have been carried into effect.

Part IV – Supplementary recommendation

Reforming the ABC's deep-seated culture of bias in relation to Israel and other contested issues is a much more difficult problem. Culture underpins the very corporate behaviour of which we have complained, but senior management is in denial that any such systemic culture exists, and therefore will not address it.

One measure was applied successfully some years ago by the South African Broadcasting Corporation (SABC). Its news and current affairs coverage of a range of key issues, including the Israel-Palestinian conflict, was subjected to a detailed external analysis, testing for accuracy and fairness over a period, by an independent, internationally-recognised media analytics company, Media Tenor. The results measured, *inter alia*, the preponderance of negativity or favourability of SABC's coverage of various aspects and viewpoints of those issues. We are informed by colleagues in South Africa that thereafter the quality of the SABC's news and current affairs coverage generally underwent a significant improvement.

We would urge that a similar independent analysis of the ABC's news and current affairs coverage, be undertaken on a regular basis, and the results published.

We stress that this supplementary recommendation can in no way serve as an alternative to an external complaints scheme. On the contrary, an external complaints authority would be a pre-requisite for overseeing any regular, independent expert testing process, for safe-guarding its integrity, and for prosecuting the implementation of any recommendations to emerge from it.

Part V – Conclusion

We seek the opportunity to meet with you both to discuss the contents of this submission.

Yours sincerely

A handwritten signature in cursive script that reads "P.S. Wertheim".

Peter Wertheim AM
Co-CEO