Presented and read a first time

Public Interest Media Advocate Bill 2013

No. , 2013

(Broadband, Communications and the Digital Economy)

A Bill for an Act relating to the Public Interest Media Advocate, and for related purposes
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A Bill for an Act relating to the Public Interest Media Advocate, and for related purposes

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act may be cited as the Public Interest Media Advocate Act 2013.
Part 1 Preliminary

Section 2

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information

<table>
<thead>
<tr>
<th>Provision(s)</th>
<th>Commencement</th>
<th>Date/Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table</td>
<td>The day this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>2. Sections 3 to 23</td>
<td>A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.</td>
<td></td>
</tr>
</tbody>
</table>

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Simplified outline

The following is a simplified outline of this Act:

- There is to be a Public Interest Media Advocate.
- The Public Interest Media Advocate has functions under:
  (a) the Broadcasting Services Act 1992; and
4 Definitions

In this Act:

ACCC means the Australian Competition and Consumer Commission.

ACMA means the Australian Communications and Media Authority.

PIMA means the Public Interest Media Advocate.

5 Extension to external Territories

This Act extends to every external Territory.
Part 2—Public Interest Media Advocate

Division 1—Establishment and functions

6 Public Interest Media Advocate

There is to be a Public Interest Media Advocate.

Note: In this Act, PIMA means the Public Interest Media Advocate: see section 4.

7 Functions of the PIMA

The PIMA has the following functions:

(a) such functions as are conferred on the PIMA by:

(i) the Broadcasting Services Act 1992; or

(ii) the News Media (Self-regulation) Act 2013;

(b) to do anything incidental to or conducive to the performance of those functions.
Division 2—Appointment

8 Appointment of PIMA

(1) The PIMA is to be appointed by the Minister by written instrument.

Note: The PIMA is eligible for reappointment: see the Acts Interpretation Act 1901.

(2) A person is not eligible for appointment as the PIMA unless the Minister is satisfied that the person has:
   (a) substantial experience or knowledge; and
   (b) significant standing;
   in at least one of the following fields:
   (c) the media industry;
   (d) law;
   (e) business or financial management;
   (f) public administration;
   (g) economics.

(3) Before appointing a person as the PIMA, the Minister must consult:
   (a) the ACMA; and
   (b) the ACCC; and
   (c) such media industry bodies as the Minister considers appropriate.

(4) Subsection (3) does not, by implication, prevent the Minister from consulting other bodies and persons.

(5) The PIMA holds office on a part-time basis.

9 Period of appointment

The PIMA holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

Note: For reappointment, see the Acts Interpretation Act 1901.
Part 2  Public Interest Media Advocate
Division 2  Appointment

Section 10

10  Acting PIMA

(1)  The Minister may appoint a person to act as the PIMA:

(a)  during a vacancy in the office of the PIMA (whether or not an appointment has previously been made to the office); or

(b)  during any period, or during all periods, when the PIMA:

(i)  is absent from duty or Australia; or

(ii)  is, for any reason, unable to perform the duties of the office.

Eligibility

(2)  A person is not eligible for appointment to act as the PIMA unless the person is eligible for appointment as the PIMA.

Note 1:  See subsection 8(2).

Note 2:  For rules that apply to acting appointments, see sections 33AB and 33A of the Acts Interpretation Act 1901.
Division 3—Terms and conditions

11 Remuneration

(1) The PIMA is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the PIMA is to be paid the remuneration that is prescribed by the regulations.

(2) The PIMA is to be paid the allowances that are prescribed by the regulations.

(3) This section has effect subject to the Remuneration Tribunal Act 1973.

12 Disclosure of interests to the Minister

The PIMA must give written notice to the Minister of all interests, pecuniary or otherwise, that the PIMA has or acquires and that conflict or could conflict with the proper performance of his or her functions.

13 Outside employment

The PIMA must not engage in any paid employment that conflicts or may conflict with the proper performance of his or her duties.

14 Leave of absence

The Minister may grant leave of absence to the PIMA on the terms and conditions that the Minister determines.

15 Resignation

(1) The PIMA may resign his or her appointment by giving the Minister a written resignation.

(2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.
Section 16

16 Termination of appointment

(1) The Minister may terminate the appointment of the PIMA:
   (a) for misbehaviour; or
   (b) if the PIMA is unable to perform the duties of his or her office because of physical or mental incapacity.

(2) The Minister may terminate the appointment of the PIMA if:
   (a) the PIMA:
      (i) becomes bankrupt; or
      (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
      (iii) compounds with his or her creditors; or
      (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
   (b) the PIMA engages in paid employment that conflicts or may conflict with the proper performance of his or her duties (see section 13); or
   (c) the PIMA fails, without reasonable excuse, to comply with section 12.

17 Other terms and conditions

The PIMA holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.
Part 3—Miscellaneous

18 Assistance to the PIMA

(1) Any or all of the following:
   (a) the ACMA;
   (b) the ACCC;
   (c) the Department;
   (d) any other Department, agency or authority of the Commonwealth;

   may assist the PIMA in the performance of his or her functions.

(2) The assistance may include the following:
   (a) the provision of information;
   (b) the provision of advice;
   (c) the making available of resources and facilities (including secretariat services and clerical assistance).

19 PIMA may hold hearings

(1) The PIMA may hold hearings for the purposes of the performance of the PIMA’s functions or the exercise of the PIMA’s powers.

   Proceedings for defamation do not lie

(2) None of the following persons:
   (a) the PIMA;
   (b) the Commonwealth;
   (c) the Secretary of the Department;
   (d) an APS employee in the Department;
   (e) a person acting with the authority of the PIMA;

   is liable to an action or proceeding, whether civil or criminal, in respect of the publication of a transcript of proceedings at a hearing held by the PIMA.
Part 3 Miscellaneous

Section 20

(3) A person is not liable to an action or proceeding, whether civil or criminal, in respect of the publication, by any means, of a fair and accurate report of proceedings at a hearing held by the PIMA.

20 Disclosure of information by the PIMA

(1) For the purposes of this section, authorised disclosure information means:

(a) information that was given in confidence to the PIMA in connection with the performance of the PIMA’s functions or the exercise of the PIMA’s powers; or

(b) information that was obtained by the PIMA under section 78FA of the Broadcasting Services Act 1992.

Disclosure to persons or authorities

(2) The PIMA may disclose authorised disclosure information to any of the following persons or authorities if the PIMA is satisfied that the information will enable or assist the person or authority to perform any of the functions, or exercise any of the powers, of the person or authority:

(a) the ACMA;

(b) the ACCC;

(c) the Australian Prudential Regulation Authority;

(d) the Australian Securities and Investments Commission;

(e) the Secretary of the Department administered by the Minister administering the Foreign Acquisitions and Takeovers Act 1975 or an APS employee in that Department whose duties relate to that Act;

(f) the Director of Public Prosecutions.

(3) The PIMA may, by writing, impose conditions to be complied with in relation to authorised disclosure information disclosed under subsection (2).

(4) An instrument made under subsection (3) that imposes conditions relating to a particular disclosure identified in the instrument is not a legislative instrument.
Section 21

(5) Otherwise, an instrument made under subsection (3) is a legislative instrument.

Disclosure to Minister

(6) The PIMA may disclose authorised disclosure information to the Minister if the information relates to the performance of the PIMA’s functions or the exercise of the PIMA’s powers.

Disclosure to public servants for advising the Minister

(7) The PIMA may disclose authorised disclosure information to any of the following persons if the PIMA is satisfied that the information will enable or assist the person to advise the Minister:
   (a) the Secretary of the Department;
   (b) an APS employee in the Department who is authorised, in writing, by the Secretary of the Department for the purposes of this subsection.

21 PIMA not subject to direction by the Minister

The PIMA is not subject to direction:
   (a) by the Minister; or
   (b) by or on behalf of the Commonwealth Government;

in relation to the performance of the PIMA’s functions or the exercise of the PIMA’s powers.

22 Annual report

The PIMA must, as soon as practicable after the end of each financial year, prepare and give to the Minister, for presentation to the Parliament, a report on:
   (a) the PIMA’s activities during that year; and
   (b) such other matters concerning the operation of the following provisions during that year as the PIMA considers should be included in the report:
      (i) the provisions of the News Media (Self-regulation) Act 2013;
      (ii) Part 5A of the Broadcasting Services Act 1992;
Part 3 Miscellaneous

Section 23

(iii) the remaining provisions of the Broadcasting Services Act 1992 so far as they relate to Part 5A of that Act.

Note: See also section 34C of the Acts Interpretation Act 1901, which contains extra rules about annual reports.

23 Regulations

The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.