

Review of the Rules of the Music Broadcasting Society of South Australia Inc

Report of the Working Group

July 2020

1 Introduction

1.1 Membership of Working Group

The members of the Working Group were: Greg Stevens (Facilitator), Kris Hanna, John Ingham, Ian Newbery, John Pederson (withdrew 4/6/20), Glen Quick, Christopher Stone, Mel Tickle.

1.2 Rules Review Process

The Working Group adopted the following process:

- review of the amendments presented to the 2019 Annual General Meeting and the reasons for such changes - the outcomes of this review are contained in Sections 2, 3.1 and 4 below
- review of the remainder of the Rules left unchanged in the 2019 submission for current relevance and accuracy - the outcomes of this review are contained in Sections 2.1 and 3.2 below
- development of recommendations regarding necessary consultation with 5MBS members prior to the 2020 Annual General Meeting and the presentation of motions to that meeting - the outcomes of these deliberations are contained in Sections 2.2, 5 and 6 below.

1.3 Guiding Principles

In carrying out the tasks outlined in Section 1.2 above, the Working Group was mindful of the following principles:

- changes should benefit the operation of the station
- changes should make Board operations more efficient
- members should be provided access to every decision-making opportunity
- clauses outdated in content and/or language should be removed or amended
- unnecessarily complicated clauses should be simplified to suit the needs of a community association
- changes that do not value-add should be avoided.

2 Recommended Changes to the Rules

2.1 Proposed Amendments

The amendments to the Rules recommended by the Working Group are contained in the attached copy of the Rules (highlighted in tracked changes). Explanatory notes summarising the rationale for each significant change are provided for the Rules where changes are proposed. No further elaboration on these changes is required in this report.

2.2 Rule 9 - Election of Office Bearers

There are two options for the election of Office Bearers. Option 1 is Office Bearers and Ordinary Directors are directly elected by the membership. This is the current method. Option 2 is Directors are elected by the membership and the Board appoints Office Bearers. This is an alternative method. Both methods are inherently acceptable and are commonly used by community organisations.

The Board has recommended that the membership of the association should determine which option should be adopted. This matter will be discussed at the 2020 Annual General Meeting and appropriate resolutions put to those attending that meeting. In order to facilitate informed discussion at the meeting, the advantages and limitations of each option are set out in Attachment

1 to the copy of the Rules referred to in Section 2.1 above. The points included in the attachment have been limited to those which are useful in differentiating between the options.

3 Supplementary Documents

3.1 Composition of the Board

One of the amendments presented to the 2019 Annual General Meeting referred to the origins of Board members and the requisite skills and experience required for radio station operations. The Working Group considered this matter in the context of 'insiders vs outsiders' and the stations' 'communities of interest'.

The inclusion of independent outsiders on a Board is a relatively common practice. The value of this is generally couched in terms of achieving better governance through access to a range of useful skills (financial, legal, marketing, management etc), lessening the impact of internal conflicts of interest and avoiding the inclusion of too many internal 'yes people'.

The Board should also be representative of the stations' communities of interest, the most significant of these being the volunteer community and consumers of the station's products (most easily engaged via the membership register). This gives the Board direct access to first-hand knowledge about the station's programming and technical operations.

The Working Group has concluded that it is logical to balance both of the above. The ratio of types of representation will vary from time to time depending on the success or otherwise of recruitment efforts. This variability is too complex to be captured in the Rules. The Working Group therefore recommends these matters be addressed in a separate policy document formally endorsed by the membership and reviewed by the Board from time to time. Such a policy document could also provide guidance on nomination processes to ensure objectivity, lack of bias and appointment on the basis of merit.

3.2 Electronic Voting

The Working Group has formed the view that the association should proactively move towards a digital future and, consequently, has recommended the Rules be amended to replace postal voting with electronic voting (see Rule 9(14) and Rule 13 in the copy of the Rules referred to in Section 2.1 above).

This recommendation is based on research into commercially available electronic voting applications which reveals the association can have sufficient confidence that suitable technology for the scale of 5MBS operations, with appropriate security safeguards, is available at an affordable price. In making this recommendation, it is acknowledged there will be a transition period in which a small percentage of members who prefer postal voting will need to be accommodated (see new Sub-Rule 5(7)(d)).

The Working Group recommends that once a decision is made on a specific electronic voting application, detailed guidance on the conduct of electronic ballots be provided via standing orders or a separate policy document approved by the Board (rather than in the Rules).

4 Changes Not Supported

4.1 First Past The Post Voting

A change to 'first past the post' (FPTP) voting was recommended at the 2019 Annual General Meeting. The Working Group considered the merits of both the FPTP and preferential voting methods and recommends that the current preferential voting method be retained.

The Working Group formed the view that preferential voting is the more democratic process and that, under preferential voting, candidates can build an absolute majority of support (more than 50% of the votes rather than the simple majority required under FPTP voting), thereby delivering a result that is satisfactory to more voters. Further, the voting method will be critical if Option 2 is chosen in relation to the appointment of Office Bearers. If any Board member can potentially be an Office Bearer, then members should be able to express a view on all candidates. In this sense, FPTP voting falls well short in that each member can only vote for one candidate.

The Working Group was not convinced by the argument that preferential voting is ‘cumbersome and complex’. In terms of complexity, the most significant difference between the voting methods is the vote counting process. All other steps in the voting process (the pre-election preparation of nomination forms, voter lists, how-to-vote information, candidate profiles) are common to both. In considering the trade-off between less work for the Returning Officer versus more satisfied voters, the Working Group favours the latter.

4.2 Size of the Board

One of the amendments presented to the 2019 Annual General Meeting proposed a Board ranging from six to eight Directors.

There is no universal agreement on optimal Board size. Size is usually decided on the basis of an organisation’s objectives and the magnitude of its membership. With respect to 5MBS, the general rule would be not less than five (too small to function properly) and no more than nine (too cumbersome). In examining the merits of a six-member Board versus an eight-member Board, the Working Group analysed the advantages and limitations of smaller versus larger, as set out in the table below.

Larger	Smaller
Advantages	Advantages
accommodates a wider range of skills and competencies	easier communication and interaction
allows for a greater diversity of perspectives	more engaged deliberations and deeper debates
greater ability to spread workload	greater ownership and responsibility for the work
better ability to populate sub-committees	more satisfaction from involvement
easier to keep conflicts of interest at bay	members get to know each other better, creating unity
Limitations	Limitations
less individual responsibility, more propensity for coasting	important opinions or points of view not represented
greater opportunity to form cliques and sub-groups	heavier workload creating burnout
meetings more difficult to schedule	less continuity in times of leadership change

Given the size of the 5MBS member base, a Board of six to eight is not unreasonable. In terms of advantages and limitations, the difference between six and eight is marginal (compared to, say, six and fifteen). On balance, the Working Group determined that the organisation would be better served by the larger number and recommends that the status quo of eight members be maintained.

Further, if the Rules are amended to provide for a range of Board members, then each of those numbers will be deemed to be satisfactory (i.e. 6, 7 and 8). If, after an election, the Board consists of eight members and casual vacancies occur, there will be no compulsion in the Rules to fill

casual vacancies until the number drops to five (notwithstanding any good intentions expressed by the Board). This could have the effect, albeit temporarily, of diluting diversification and reducing available skills.

4.3 Voting by Proxy

One of the amendments presented to the 2019 Annual General Meeting was the introduction of voting by proxy. The set of words in relation to proxy voting suggested in that submission is very complicated, and could be simplified more in keeping with the needs of a community association.

The Working Group recognises there are positive aspects to the use of proxies (e.g. giving members who genuinely cannot attend a meeting the opportunity to have a say and the achievement of quorums). If proxy voting were to be introduced, the Working Group believes there are safeguards against the misuse of proxies that should also be applied:

- limiting the number of proxy votes that an individual can exercise
- allowing 'directed' or 'specific' proxies only (as opposed to 'general' proxies where the holder may vote as they see fit)
- not allowing non-members to act as proxies.

The Working Group, however, does not recommend the introduction of voting by proxy for the reasons outlined below.

The association has previously acted to introduce a ballot of all members for the election of Office Bearers. This was a significant innovation which proactively applies the principle that every member should have access to every important decision-making opportunity. This is particularly relevant in relation to the Rules, which is the association's most fundamental document. In the proposed amendments referred to in Section 2.1 above, the Working Group recommends this innovation be extended to changes to the Rules (see Rule 13). This has the advantage of removing control of the Rules from a vocal minority at an Annual General Meeting and significantly lessens the need for voting by proxy.

4.4 Public Officer

One of the amendments presented to the 2019 Annual General Meeting proposed to confine the role of Public Officer to either the President, Secretary or Treasurer.

The Public Officer is essentially a postbox to provide a legal contact point for the Office of Consumer and Business Affairs. The Working Group is concerned that the proposed amendment would require the replacement or re-appointment of the Public Officer far more frequently than is necessary. The qualities necessary for fulfilling the role are a long-standing, stable and reliable member of the association. The Working Group recommends no change to the current provisions relating to the Public Officer. This does not prevent the appointment of a Board member but retains the flexibility to appoint others as circumstances might require.

5 Consultation Process

5.1 Suggested Strategy

Given the fundamental importance of the Rules, and In the interests of total transparency and the principle of providing members informed access to every decision-making opportunity, the Working Group recommends a comprehensive consultation process involving the members be undertaken. This process should occur in a timely manner prior to the 2020 Annual General Meeting.

The Working Group recommends that the components of this strategy include:

- circulation of an information package via electronic mail to all members during the month of September. This package should include (1) a covering note from the Board setting out the

context of the review, (2) the report of the Working Group and (3) the tracked change version of the Rules (including the attachment)

- uploading of the information package described above to the 5MBS website during the month of September
- an article in the Volunteers' Newsletter for September regarding the review of the Rules, drawing particular attention to the vote on the process for the election of Office Bearers to be conducted at the Annual General Meeting
- circulation of the motions to be moved regarding the Rules to all members during the month of October with the formal Notice calling the 2020 Annual General Meeting (see Section 6.1 below).

6 Procedure at the Annual General Meeting

6.1 Series of Motions

The Working Group believes the Board should pay particular attention to the way in which the proposed amendments to the Rules are presented to those present at the Annual General Meeting. So that generally accepted changes are not unduly delayed by a few controversial issues (if any), the Working Group recommends the preparation of a series of motions.

The Working Group suggests the following breakdown:

- a motion proposing the adoption of the amendments to Rule 5 (Membership)
- a motion either proposing the adoption of amendments or retaining the status quo in relation to Rule 9 (The Board of Directors) - depending on the outcome of the vote on the process for the election of Office Bearers
- a motion proposing the adoption of the amendment to Rule 13 (Rules)
- a motion proposing the adoption of all remaining amendments not covered by the previous motions.

Finally, the Working Group believes that, prior to the Annual General Meeting, individuals should be nominated to present the case for each option in relation to the election of Office Bearers, in order to ensure an orderly and evenly balanced conversation at the meeting.