

# Inquiry into the competitive neutrality of Australia’s national broadcasters

## Submission – Andrew Jakubowicz (20 June 2018)

### Question 8: Considering the commercial activities of the national broadcasters (e.g. where they are selling or purchasing goods and services), is there evidence that they have taken undue advantage of their government ownership, to the detriment of competitive outcomes?

### There is no evidence of undue advantage. In a mixed media landscape every organisation has certain advantages and disadvantages; for instance commercial organisations do not need to pay attention to truth and can run ideology and factuality together to benefit their shareholders and advertisers. They can subsidise loss making programs that reflect the ideology of their owners, and disregard complaints or variant views. They can invade privacy and exploit their market positions. Neither the ABC nor SBS would do these things, and are always anxious to remediate any mistakes.

### Question 9: What is the differential impact of regulation on commercial and national broadcasters, and is there evidence of consequent adverse impacts on competition and outcomes?

### Given the free access to publicly valuable distribution capacity (band width etc), and the extraordinarily complex methods that audiences have to use to hold commercial broadcasters to account, regulation massively benefits the commercial sector. The national broadcasters are far more vulnerable to regulatory variations that reflect short term government thinking, with no access to the market in serious terms to develop alternative significant resources.

### Question 10: Is the reporting and accountability by the national broadcasters on their best endeavours to observe competitive neutrality adequate?

Given that competitive neutrality testing depends on detailed access top the confidential business practices of the commercial sector, the national broadcasters do the best they can with limited information. Competitive neutrality would be enhanced were the commercial sector entities required to reveal all relevant elements in their business models, including cross subsidies, taxation avoidance/minimisation strategies and overall corporate trajectories including deals with advertisers etc.

Question 11: Are you aware of any specific instances where the ABC or SBS may have received any other competitive advantage, due to their public ownership, to the detriment of a private competitor?

### "Any other" is misleading - "any other undue commercial advantage" may be a better way of putting it. I am not aware of such a situation.

### Question 12: The SBS Charter requires it to take into account the activities of the ABC and community television on radio and television. In the context of the competitive neutrality principles how in your view, is the SBS complying with this requirement? From your perspective does it adequately cover the activities of the SBS?

### The SBS is an innovative and strategically effective broadcaster, that seeks to complement other broadcasters in the national, commercial and community sectors. It has discovered various novel ways of serving underserved audiences, and has generated new forms of screen and audio content and delivery. In my view SBS has to do rather too much with its limited resources, as the other commercial and national broadcasters consistently fail to reflect the contemporary cultural diversity of Australia. It also speaks to more "hip" younger audiences from a global perspectives, evading the usually pedestrian and parochial perspectives of the commercials and the national-interest focussed national broadcaster.

### Question 13: From your perspective do the national broadcasters seek a balance between competing in the market and complementing the market? Is that balance the same for traditional broadcasting and for new digital platforms?

### The national broadcasters provide a reasonable though unstable balance between competition and complementarity. Given that the market is changing (think Netflix and Spotify) they both operate in a highly disrupted scene. The behemoth commercials can direct huge advertiser revenues to building reality TV shows with glitz and clamour, whereas the nationals have far fewer resources and have to work cheaper and smarter. They are both hampered by the dependence on buying in overseas programming to fill many broadcast slots, often poor British product, whereas the commercials depend on US product. The digital platforms operated by the commercials are pitiful, market chasing, under-developed and generally of limited value in national cultural and information development.

### Question 14: Do you have comment on these guiding principles?

The insistence that the nationals not gain UNDUE commercial advantage from their position should be offset by a recognition that they may face UNDUE commercial disadvantage because of their close control by government in relation to resources. Governments can and do attempt to strangle the nationals, a sort of potentially deniable water-boarding. Long term funding horizons, a clear specification of viability criteria through agreements with government, and the requirement that commercials make their commercial situation transparent to the nationals in negotiating competitive neutrality, would help ensure the water boarding keeps the playing field level and identifies all the factors, not just those selected by the commercials for their commercial advantage.