

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

## Submission – Gayle Davies (22 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?

### No. If anything, the ABC has been disadvantaged, in particular by continuous budget cuts and budgetary uncertainty, which impede its ability both to purchase goods and services, to produce content internally and to commission it externally.

### 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?

### The ABC is more highly regulated than the commercial broadcasters because it is regulated by statute. The commercial media are regulated by the Commercial Television Code of Practice, the AANA Advertiser Code of Ethics, and the Press Council of Australia. These are voluntary codes, and do not have the regulatory force of an Act of Parliament. As commercial entities they must also comply with relevant laws governing corporations. These can hardly be so onerous as to disadvantage them in comparison with the ABC.

### All media, including the ABC, are also regulated by laws covering defamation and contempt of court.

### One has only to observe the barrage of complaints against the ABC by the Minister for Communications and other government ministers, and the time wasted by the ABC in investigating and responding to them, in comparison with the ineffectual reprimands issued to the commercial media by the Press Council, to conclude that the commercial media do not suffer adversely from being regulated by what are, in effect, voluntary codes.

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

Absolutely. The ABC is more transparent than the commercial broadcasters - it must publish Annual Reports including financial statements (as all government departments are required to do), prepare budget submissions, and appear before Senate Estimates Committees, which are publicly broadcast and reported on. By contrast, it is difficult to find details of commercial media ownership, let alone financial details, details of executive salaries and bonuses, who the executives are, the proportion of foreign shareholders, etc, other than by going to the ASX lists or ASIC..

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?

### No.

### 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 in my view complies with this requirement well. The NITV channel is an example, as well as its radio broadcasts in a huge variety of languages. It both complements and supplements community radio and television. Yes.

### 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?

### Yes. As I understand it, the ABC pays Google to put its news at the top of search results. I cannot see why this is necessary or even practicable, as it must alter the effect of the Google's search algorithm. However, there are a number of other search engines which put other media at the top of their search results (Bing, MSN, etc). Any competitive advantage the ABC might gain from this is surely counterbalanced by the ubiquity of commercial media broadcasts in public spaces, such as Sydney CBD train stations, medical and hospital waiting rooms, airport lounges, pubs, shopping malls etc. There is almost no public space, that is not polluted by advertising. This is brainwashing on a scale even Orwell could not have imagined.

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

### They are not appropriate to apply to social necessities such as public broadcasters, schools, universities and health care, and utilities such as water, energy and telecommunications carriers.