

# **Submission to the Inquiry into Competitive Neutrality of the National Broadcasters.**

**By the Australian Government**

**Department of Communications and the Arts**

Submitted by:

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Do not wish to remain anonymous

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## 1. Preliminary remarks

- This submission predominantly relates to competitive neutrality issues regarding the ABC.
  - The OECD Corporation Governance Working Paper No 1 titled 'Competitive Neutrality and State-Owned Enterprises' points out how the term 'competitive neutrality' in Australia differs from that of the OECD, and that in Australia 'there have been relatively few formal complaints.'
- See:
- [https://read.oecd-ilibrary.org/governance/competitive-neutrality-and-state-owned-enterprises\\_5kg9xfgidhg6-en#page31](https://read.oecd-ilibrary.org/governance/competitive-neutrality-and-state-owned-enterprises_5kg9xfgidhg6-en#page31). Accessed 11/6/18.
- The notion of competitive neutrality, as articulated by this enquiry, is primarily econometric and makes limited references to broadcasting publics, or audience responses, or differentiation between major institutional players, or the relative cultural value of Australia's national public broadcasters.
  - A brief section is included on a comparable, though broader ranging enquiry, into the BBC Charter Review undertaken in 2014, and the related policy outcomes that followed in 2017.
  - Though the ABC and commercial broadcasters often operate in the same markets, the ABC as a public service broadcaster has designated legal and operational responsibilities to much wider constituencies.

## 2. The Mansfield Enquiry and beyond

- In January 1997, a two volume investigative report into the ABC was released titled 'The Challenge of a Better ABC.' Chairman Bob Mansfield - a former CEO of McDonalds and later Optus- remarked at the beginning of Volume 1:

I was overwhelmed by the response to my call for public submissions. The fact was that 10, 615 individuals, groups and organisations chose to put their views in writing indicates the strength of feeling many Australians have concerning the value of the ABC. Most private companies would envy the passion and loyalty which characterises the relationship of the ABC with its audience – it is clearly a special relationship. V1, p4

1997. 'The challenge of a better ABC,' AGPS, cat no 9608540 (v1) and 9608559 (v2), National Library of Australia.

- The term 'competitive neutrality' is not mentioned in the Mansfield report, and as far as I am aware no perceived threats were canvassed by commercial broadcasters during the Mansfield investigations. So why have they arisen now?
- The Issues Paper implicitly raises concerns about the competitive activities of public broadcasters. Hence in response I wish to offer a brief 'birds eye' sweep of the post Mansfield era of the ABC in terms of its subsequent performance and its leading role as an innovator.
- The ABC is actually a stronger hybrid organisation now than then; it has grown in offering popular national services on both its television and radio networks, to urban and rural people, and also extended its role with a new range of digital offerings. Notable is new digital services with up successful iView catch up service for television, and more recently its remarkable ABC Listen app readily offering 14 different types radio stations on one app. The reach of ABC services is extraordinarily wide, geographically and culturally, unlike its commercial counterparts who are constrained by having to 'deliver numbers' to advertisers.
- The ABC continues to achieve stronger audience ratings now than then in many programming areas. Most notable is the appeal of the ABC public affairs quintet of 'Four Corners,' 'The Drum,' 'Q and A,' '7.30', and 'Insiders,' the last of which alone hosts a remarkable 550,000 viewers on most Sunday mornings. Its counterparts in public affairs programs commercial television include Channel 9's 'Sixty Minutes', 7's 'Sunday Night,' and possibly 10s 'The Project.'
- The ABC continues to experience high levels of public trust. According to research by The Essential Report (2017), the ABC is only surpassed by the police and the High Court in its overall level of public trust. Business groups are bracketed in 12<sup>th</sup> place with a 'total trust' rating of half that of the ABC. See:

<http://www.essentialvision.com.au/trust-in-institutions>.

- The irony underlying the frequent attacks on the alleged financial inefficiency of the ABC is that all of its services are derived from an annual Australian government budget allocation for both radio and

television, urban and regional, together with the online innovations, of about 1 billion.

- By contrast the Free TV web site shows an annual revenue for commercial television in Australia of 3.7 billion. ( Combines latest data available of \$1.74 for July – December 2016 with \$ 1.97b for January – June 2015.

See [http://www.freetv.com.au/content\\_common/pg-free-tv-advertising-revenue.seo](http://www.freetv.com.au/content_common/pg-free-tv-advertising-revenue.seo) . Accessed 5/6/18

- In addition the total radio revenue for metropolitan stations was \$ 77m for 2015-16. See:  
<http://www.commercialradio.com.au/content/mediareleases/2016/2016-07-07-radio-ad-revenue-up-5-88-in-2015-16>

Hence the combined commercial broadcasting revenue total of \$4.48b was about 4.5 times more than that of the ABC!

- On the basis of the above data, is it not somewhat incongruous that this review is centred on possible financial problems created by the ABC (and SBS) to the commercial broadcasting sector? And that the ABC has been subjected to several 'efficiency reviews' in recent years?
- This modest ABC funding means it is forced to be 'competitively neutral' in several major programming areas. For instance, in terms of bidding for major sports broadcasting rights the ABC 'struggles'- notably with Tennis Australia for the Australian Open, with gaining television cricket rights with Cricket Australia, and with both the NRL and AFL football. Similarly the ABC has in recent years been forced to withdraw from the purchase of many BBC drama series, as well as reduce its commissioning of local made drama. Far from being competitively neutral in these contexts, it is competitively non-existent.
- 3. A comparable overseas investigation: The BBC Charter Review.

Some of the issues to be considered by this committee are consistent with comparable attempts overseas at 'hand cuffing' public service broadcasters in the market place in order to reduce activities that might impinge on the capacity of commercial broadcasters to attract advertising dollars and thereby impact on their overall profitability. Is this the central cause behind the calling of this enquiry?

- I conducted research in London during 2015 at a time when British broadcasting policy issues were subject to an extensive and vexed government enquiry into the BBC. A short extract below from my related published article notes how similar issues to this Australian enquiry were canvassed in the U.K:

During the lead up to the British general election in 2015, the Cameron Conservative government issued a Green Paper, *BBC Charter Review, July-October 2015*, which broke new ground in terms of the scope of such an enquiry for its level of institutional criticism of the BBC. (See BBC Charter Review. (2015). Green Paper. At <https://www.gov.uk/government/consultations/bbc-charter-review-public-consultation>. July –October 2015. Retrieved 12.11.15)

A most unusual aspect of the Green Paper is the categorisation of the ‘negative effects the BBC can have on wider markets’, collectively in ‘Box 4: Market Impacts’ (p25). The term wider markets’ refers to the BBC’s alleged impact on other players in a media market place usually presumed to be open and freely competitive in the British democracy.

The first perceived problem is that ‘the commercial television sector can struggle to compete with freely distributed BBC content.’ In what sense is the term ‘free’ used here? Unlike in Australia, BBC viewers and listeners currently have to pay the equivalent of \$A 309 as a compulsory licence fee. Is it implied that the BBC should restrict the distribution of its content more so than it does now? If so, why?

And if the BBC’s competitors cannot hold their own in the market place, is it a legitimate role of the government’s Secretary of State for Culture, Media and Sport to do something about that? British commercial broadcasters leapt upon this opening with glee in their response to the request for public submissions to the Green Paper. Remarkably a major broadcaster, ITV, called *for blanket bans to prevent* the BBC from buying US films or comparable shows in any circumstances, arguing that ‘The BBC should not be permitted to

acquire content that is already made... where another commercial rival is prepared to purchase that content or format.'

Minister Whitingdale questioned elsewhere whether it was 'good use of the licence fee taxpayers' money to buy shows he judges as being 'way outside of what I call public service broadcasting.' *Note –his own 'of what I call.'* So is it this minister's intention to restrict the BBC to niche programs only, thereby threatening to reduce the number of households who will be prepared to continue to pay the licence fee? This is also a surprising call coming from ITV, a company with a commendable record of defending the principle of freedom of expression for media organisations. Surely this is somewhat Monty Pythonesque – see how well you can survive BBC once we've chopped your legs off!

Barr, T.2015. 'The BBC Charter Review', *Australian Journal of Telecommunications and the Digital Economy*, Vol 3, no 4.

- After the barrage of criticisms directed at the BBC from a variety of quarters, notably from the commercial broadcasting sector, and the minister himself responsible for the enquiry, the subsequent policy outcomes offered only vague platitudes about change. In the subsequent 41 page policy outcomes document the only two small sections of relevant references to this enquiry can be found in the 'Royal Charter for the continuation of the British Broadcasting Corporation, ' December 2016 at :

[http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how\\_we\\_govern/2016/charter.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_govern/2016/charter.pdf)

They are:

#### 11. Market impact (p 8 )

(1) The BBC must have particular regard to the effects of its activities on competition in the United Kingdom.

(2) In complying with this article, the BBC must

(a) seek to avoid adverse impacts on competition which are not necessary for the effective fulfilment of the Mission and the promotion of the Public Purposes;

b) have regard to promoting positive impacts on the wider market.

And:

### **13. Partnership ( p9)**

(1) The BBC must work collaboratively and seek to enter into partnerships with other organisations, particularly in the creative economy, where to do so would be in the public interest.

(2) In complying with this article, the BBC must—

(a) enter into partnerships, which, overall, are with a wide range of organisations including commercial and non-commercial organisations and organisations of all sizes, throughout the nations and regions of the United Kingdom, covering television, radio and online services; and

(b) ensure that its partnerships are fair and beneficial to all organisations in the partnership and, in particular, that partners are given due attribution and recognition, including in the branding and promotion of the output and services created or distributed.

#### **4. On-line Innovation**

The Mansfield enquiry recommended that the ABC needed to ‘plan for and provide for technological change’ with a digital strategy (p 6, Vol 1). Few would doubt now that the ABC has become the market leader in online media initiatives during the past decade or so. It is widely acknowledged that the CEO Mark Scott era (2006-16) did just that with the brilliant adoption of ABC social media initiatives.

The ABC’s catch up iView service quickly became the most popular entertainment app:

The award-winning ABC iView mobile app is one of the top 10 most downloaded apps in Australia and New Zealand, according to *Apple’s Top 25 All-Time Free Apps*.

ABC iView is number one in the entertainment category and is more popular than Kindle, YouTube, Foxtel Go, and The SMH for iPad.

The ABC iView app has overtaken PCs as the most popular platform for viewing ABC TV programs online, representing 53% of all iView plays in April 2013.

Since its launch in December 2010, the app has amassed close to 2.5 million downloads and attracts more than 550,000 unique users per month.

In April, iView set a new record for total monthly program plays across all platforms and devices of 15.4 million.

(<http://about.abc.net.au/press-releases/abc-iview-most-popular-entertainment-app/>)

- Vested commercial media interests have criticised the success of iView in the common market place, and other ABC digital platform initiatives, on the grounds that such services are provided for 'free,' which puts commercial media organisations at a competitive disadvantage. But surely nothing is ever provided 'free' in the broadcasting market place. Also, the claim by some individuals that because they do not wish to access these services they should not have to pay for them via taxation is both naïve and self-serving. The present Australian government intends to eventually provide over \$70 billion for several major initiatives in national infrastructure, notably with more freeways, throughout Australia. Is it legitimate for any Australian taxpayer to complain that they are unlikely to ever use most of the new freeways and therefore to tax for such is unfair?

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- However, there is a wider phenomenon that needs attention here. Philip Aldrick, economics editor of *The Times*, UK, has written about the 'grumblings' against free media, arguing that there is a term in economics – the 'consumer surplus' – that distinguishes the price someone pays for a good from the value they place on it. This, he suggests, is becoming increasingly relevant now that so much of what we consume is free. He suggests:

Nowadays no one need pay for social networks, messaging apps, maps, music and video players, games machines, calculators, alarm clocks or encyclopedias, not to mention cameras and photos. Instead we barter our data for them.

Aldrick is basically saying to complainants 'there's so much free media now for consumers – live with it!'

Aldrick, P, 2018. 'Social Media Worth A Fortune To US, *The Australian*, May 21. p23.

I suggest Aldrick would argue that any case defending 'free media' would fit within the conceptual framework of the notion of competitive neutrality. And any steps to restrict the freedom of the services made available by the ABC, within its budget restraints, would be both regressive and anachronistic. Hopefully this committee will re-endorse the 2103 addition to the ABC Charter for the pursuit on online innovation as a legitimate and major part of an ABC futures strategy.

## 5. Options

Both the justification and practicalities of recommending changes to broadcasting policy related to the terms of reference of this enquiry appear to be extremely limited. Presumably any changes would have to either somehow fit within the existing charter of the ABC, or require legislative changes to be approved by both Houses of the Australian Parliament.

-The cornerstone of this enquiry – the notion of competitive neutrality – is not mentioned in the ABC Charter contained in section 6 of the ABC Act. What is requested in the Issues Paper is that this panel seek views on Section 6 (2) that the ABC (and SBS) 'take account of the broadcasting services provided by the commercial and community sectors of the Australian Broadcasting system.' The statement appears to leave open potentially damaging recommendations. For instance, if ABC management perceives a genre of commercial programming that is not meeting its audience needs, could it be prevented from even bidding to enter that field? Or not be allowed to bid competitively for the rights to external programming sources – just as ITV argued for in the British Charter review calling for blanket bans on the BBC where 'a commercial rival is prepared to purchase that content or format.'

The ABC already has competitive neutrality restrictions imposed on it; namely that it is highly dependent on the national government for its funding mainly allocated through triennial funding. To initiate any major strategic innovation it has to go 'cap in hand' to its master for extra funding outside of its usual orbit.

( the presumption here is that following so many years cuts to ABC budgets that no 'efficiency gains' are now possible to fund major innovation.) Though one would not expect it to have 'blank cheque' surely this is a critical form of competitive neutrality imposed on it.

## 6. Conclusion

Several people familiar with the genesis of this enquiry have suggested that 'competitive neutrality' here is a ruse to try to get our national government to somehow restrict the documented success of ABC television, radio, and on-line public services in terms of their market pull, high level of trust in the community, and their value and impact on public policy. What is not clear in these investigative processes to date is this critical question – what are the problems that the ABC needs to remedy? These attacks are consistent with comparable attempts overseas at hand cuffing public service broadcasters in the market place to reduce activities that may impinge on the capacity of commercial broadcasters to attract advertising dollars for their own operations - and thereby impact on their overall profitability.

Unfortunately many policy makers at present seem unable to positively work to re-position the ABC to become integral to a necessary re-structuring of Australian economic policy towards what is often called a more diversified 'creative economy.' In this context the current ABC could be seen as potentially 'a great community software factory' along the lines of its British counterpart, the BBC. The ABC has the talent, the high level of public trust and has achieved remarkable performances given its modest budget as a national broadcaster .

I commend the decision to make submissions publicly available among those who grant permission to do so. I look forward to reading such submissions, and hope that vested industry interests also all permit openness with their submissions.

Whilst I shall remain open minded on the key issues, my principal recommendation at this stage is that this committee essentially opts for recommending the retention of the status quo in terms of national competitive neutrality issues related to Australian broadcasting.

Thank you for the opportunity to participate.

