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4 September 2018

Mr Robert Kerr  
Chair, Competitive Neutrality Inquiry  
Department of Communications and the Arts  
GPO Box 2154  
CANBERRA ACT 2601

By Email: [REDACTED]

Dear Mr Kerr

We thank the Panel for the opportunity to make this supplementary submission to the Competitive Neutrality Inquiry.

The Panel is aware of the ABC's recent investment in a new lifestyle offering—ABC Life. We consider that this investment and the commentary surrounding it are illustrative of the need for an enhanced regulatory framework that can independently assess the performance of the national broadcasters in delivering on their charter obligations.

The ABC's Charter requires it to take into account the services already provided by the commercial sector. Given that the lifestyle segment of the market is already comprehensively covered by the commercial media sector, there has been much media speculation and commentary regarding the ABC's investment in ABC Life.

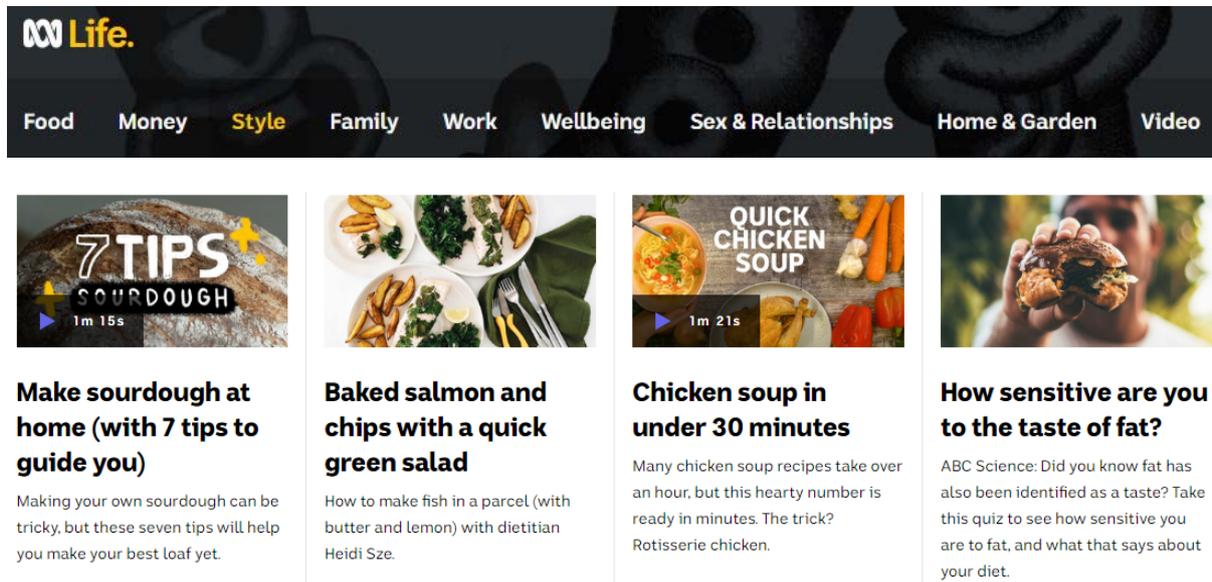
We consider that it is entirely unsatisfactory that there is no proper process for the ABC to transparently set out why it considers that the new service is distinctive and how it has taken account of the services already offered by the commercial sector. This denies those who are concerned that the ABC is acting outside of its legislation an opportunity to have these claims independently tested. Equally importantly, it also denies the ABC the opportunity to have its assessment that the investment is consistent with its charter verified by an independent regulator.

### **Lifestyle is already a very well served market segment**

There is merit in claims that the ABC Life investment duplicates services that are freely provided by the commercial sector. As shown below, it covers a broad range of lifestyle topics, from food, style, work, wellbeing and home and garden.

In addition to the investment in new content, ABC Life also includes curated content made primarily for other platforms, like ABC Radio National. However, by bringing this content together and building the ABC Life brand, there is little doubt that this investment erodes

commercial business models as it makes the content more discoverable and higher profile, attracting audiences from other commercial lifestyle offerings.



The screenshot shows the ABC Life website interface. At the top is the ABC Life logo. Below it is a navigation bar with categories: Food, Money, Style (highlighted in yellow), Family, Work, Wellbeing, Sex & Relationships, Home & Garden, and Video. The main content area features four cards:

- 7 TIPS SOURDOUGH** (1m 15s): Make sourdough at home (with 7 tips to guide you). Making your own sourdough can be tricky, but these seven tips will help you make your best loaf yet.
- Baked salmon and chips with a quick green salad**: How to make fish in a parcel (with butter and lemon) with dietitian Heidi Sze.
- QUICK CHICKEN SOUP** (1m 21s): Chicken soup in under 30 minutes. Many chicken soup recipes take over an hour, but this hearty number is ready in minutes. The trick? Rotisserie chicken.
- How sensitive are you to the taste of fat?**: ABC Science: Did you know fat has also been identified as a taste? Take this quiz to see how sensitive you are to fat, and what that says about your diet.

A successful digital offering in this space has three key characteristics. First, it must operate at significant scale by having a broad reach. Second, the content must remain fresh and be continually updated. Thirdly, the content itself must be very high quality.

Achieving these three things requires considerable investment. The commercial sector is making this investment through websites such as bhg.com.au, Newidea.com.au, 9Honey, ten daily, Mamamia, Popsugar and Kidspot. These investments are funded through revenue from advertisers seeking to engage with a valuable audience segment. However, this model is undermined if the ABC provides an advertising-free service in a manner that is not distinctive and not in keeping with their core charter obligations. This includes publishing a newsletter to subscribers—a key tool in the engagement model for commercial providers.

### Why are these competitive neutrality issues?

The substantive Free TV submission sets out a range of competitive neutrality issues from a more favourable regulatory framework, tax exemptions, limited disclosure requirements and an uncommercial approach to operational decision making and risk management.

These become competitive neutrality issues when the national broadcasters are providing services that are not distinctive to those already provided by the commercial sector. Primarily we have raised issues regarding the programming practices of SBS TV that have taken it away from its primary function towards that of being a fourth commercial broadcasting network.

However, the recent investment by the ABC in their lifestyle offering also has the potential to enliven the competitive neutrality issues outlined above as it includes content that is indistinguishable from that available from other commercial outlets.

The enhanced regulatory framework we discussed in our substantive submission is outlined again below. This would provide the most appropriate mechanism to provide transparency on how the ABC came to the view that this new service was both aligned to with their charter and how they took account of the services already provided by the commercial sector.

## **The Free TV proposed model**

Free TV has recommended an enhanced regulatory function for the Australian Communications and Media Authority (ACMA) to report on the performance of the national broadcasters in delivering on their charter obligations.

Our proposed new reporting regime would create annual competition and charter reviews by the ACMA to report on the performance of national broadcasters in regard to:

- taking account of the services provided by the commercial sector;
- meeting their charter obligations; and
- any other matter set out by the Minister.

In turn the national broadcasters would be required to report on how they took account of the commercial sector in the past 12-month period and how they plan to take account of the findings of the most recent ACMA competition and charter review.

Our substantive submission made the case that greater regulatory transparency is needed in light of SBS investments in channels such as SBS Viceland and SBS Food Network. The ABC Life example cited in this supplementary submission further demonstrates how our proposed model would provide transparency on how the national broadcasters take account of existing commercial services. It would also provide the national broadcasters with the opportunity to justify their content decisions and explain how any proposed new service is distinctive from existing services and is consistent with their broader charters.

We urge the Panel to consider this matter and form recommendations that would add the required transparency to the way in which our national broadcasters take account of services freely provided by the commercial sector.

If the Panel or the secretariat would like any further information regarding this submission or our substantive submission, please do not hesitate to contact me on 02 8968 7100.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Bridget Fair', with a stylized flourish at the end.

Bridget Fair  
Chief Executive Officer