

Friday 1 July 2016

The Registrar
Business Acquisitions and Authorisations
Commerce Commission New Zealand
44 The Terrace
Wellington Central
Wellington - 6140

By Email: registrar@comcom.govt.nz

RE: Submission on Application by Wilson and Horton Limited (trading as NZME) and Fairfax New Zealand Limited to the Commerce Commission Seeking Clearance/Authorisation of Merger Proposal

Dear Registrar,

1. *About the Submitter and the Submission*

1.1 My name is Avi Singh and I am writing to you today to present the following submission on the application by Wilson and Horton Limited (trading as NZME) and Fairfax New Zealand Limited ("the applicants") to the Commerce Commission ("the Commission") for authorisation of their merger proposal.

1.2 My contact email address is contained in the letterhead at the top of the page should you wish to inquire further about my submission.

1.3 This submission is prepared in my personal capacity as a citizen who has also worked as a freelance journalist; it can also be considered a public version of my submission for the purposes of the Official Information Act 1982 and can be published on the Commission's website in its entirety.

1.4 This submission requests the Commission to decline to clear or authorise the application on the grounds that the proposed merger:

1.4.1 substantially lessens competition in the market in New Zealand concerning the online¹ provision of nationwide news and information to consumers ("the relevant market"), and;

¹ The word 'online' has been used in this submission out of normal custom but 'digital' is an equally valid word to use in the context of this application.

1.4.2 does not fulfil the public benefit test which must be satisfied for the approval of any applications which will have the effect of substantially lessening competition in the relevant market.

1.5 This submission makes no comments on the impact of the merger on any of the other advertiser or consumer markets mentioned by the applicants.

2. *The Relevant Market and the Absence of Public Benefit*

2.1 The application makes note of the numerous organisations, either being online versions of print publications or online-only publications, which the applicants view as competitors in the relevant market.

2.2 While purchases of items like groceries generally tend to be a zero-sum game (where if one competitor gains a customer, the other competitor loses them), the applicants spend insufficient time addressing the issue that news consumption does not operate on the same lines; multiple competitors can be, and are, consumed at any one time in an increasingly online-dominated world where people rely on a multitude of sources for their news consumption. This limits the applicability of the argument that the other organisations exist solely as competitors.

2.3 The applicants also cite the multitude of such organisations as evidence that were the applicants to merge their operations, this would not present a substantial lessening of competition in the relevant market. Where competition is measured simply through the quantity of competing organisations, in relation to the proposed market the applicants' assertion that there would only be a reduction of one organisation amongst a marketplace of hundreds of organisations is clearly correct.

2.4 However, it is *effective* competition (where the playing field is relatively level allowing a reasonable number of organisations to participate meaningfully in the market) which is the relevant consideration in relation to determining whether there is a substantial lessening of competition, not an overly simplistic quantitative measure of competition based on a crude calculations of organisations in the market. For the reasons set out below, effective competition is not sufficiently present in the relevant market.

2.5 Many of the organisations listed as competitors in the proposed market by the applicants are small local and regional publications. Compared to the applicants' organisations in the online market, Stuff.co.nz ("Stuff") and nzherald.co.nz ("NZH Online"), these other organisations aim to produce significantly different content from the applicants with a focus on area-specific and localised news coupled with far less frequent publication, even online, making them more complementary than competitive.

2.6 Additionally, most of these organisations do not have the resources to service the public interest in the way that Stuff and NZH Online do through covering the gamut of national news from North to South Island, their presence in the Parliamentary Press Gallery and their ability to widely cover local government authorities, all key functions of the media in their role as the Fourth Estate. Only Stuff and NZH Online are able to supply New Zealand-wide online news with sufficient regularity and detail, the major television and radio networks still primarily reaching their audiences through their traditional mediums despite their attempts at convergence.

2.7 This lack of resources is also conceded by many bloggers (again listed as competitors by the applicants). Bloggers also generally acknowledge that while they are alternative sources of information, they generally adopt a more partisan approach to their coverage at odds with traditional journalistic values of impartiality, objectivity, balance and fairness. This tends to limit their audience numbers to niche levels.

2.8 Accordingly, effective competition is absent in the relevant market so this proposed merger represents a substantial lessening of competition and should not be permitted to proceed.

2.9 The reasons set out above also indicate that there is no public benefit to this proposal; indeed, job losses and resource cuts will result in a reduction of voices in an already highly concentrated media market which will not be compensated for by the other organisations which are supposedly competitors in the relevant market.

Thank you for providing me with the opportunity to make this submission and I hope its recommendations are accepted.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'AS' or 'Avi Singh', written in a cursive style.

Avi Singh