



Fairfax/NZME – review of Covec report for TVNZ

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1. Introduction

1. Covec has prepared a report for TVNZ, assessing the proposed merger of Fairfax and NZME.¹ This report was filed with the Commerce Commission. We have been asked by Russell McVeagh to review this report.

2. Competition in two-sided markets

2.1. Introduction

2. In section 2 of its report, Covec analyses time series data on cover prices, advertising rate card prices and circulation for *The New Zealand Herald* and *The Dominion Post* to draw inferences on the nature of competition across the advertiser and reader sides of the market (further inferences are also drawn in section 6 of the Covec report). In this section we review the Covec analysis, and assess the inferences drawn.
3. As a high-level comment, Covec's analysis is undertaken over a relatively long time scale, with data on prices going back as far as 2004. To draw inferences from time series data, it is usually preferable to use as long a time series as possible. However, in an industry that is rapidly evolving due to the impact of the internet and mobile internet access, a long time series may conceal the dynamics that are important for a forward-looking analysis.
4. Indeed, while the nzherald.co.nz and Stuff websites were launched in 1998 and 2000 respectively, the industry dynamics have changed considerably in more recent years, as we explained in our 27 May 2016 report.² Similarly our analysis below shows changes in prices and volumes have differed in recent years compared with longer-term trends, and accordingly analysis over longer time periods may obscure these recent changes. In our view it is these more recent industry dynamics that are of greater relevance to an analysis of the (forward-looking) competitive effects of the proposed merger.

2.2. Advertisers

5. On the advertising side of the market, Covec analyses advertising rate card prices for full-, half- and quarter-page advertising for *The New Zealand Herald* and *The Dominion Post*. The purpose of Covec's analysis here appears to be twofold: to consider the implications for two-sided markets (e.g., at [30]); and to analyse potential competition between these two newspapers (e.g., at [34]).
6. However, for both of these considerations it is more relevant to analyse actual (realised) advertising prices,³ rather than rate card prices, as the former take into account discounting from rate cards that is likely to be an important factor in considering the competitive

¹ Covec (2016), "Economic Analysis of market definition relevant to the NZME-Fairfax Merger Proposal", 14 September.

² See section 2.3.3.2.3 of our 27 May 2016 report.

³ We recognise that Covec does not have access to this data.

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dynamics. Covec’s analysis of full-, half- and quarter-page advertising (which is presumably display advertising) is also only a subset of newspaper advertising products, whereas it is preferable to analyse the broader set of all newspaper advertising (i.e., all ad sizes, and both display and classified advertising). Analysing actual advertising prices across this broader set will be more revealing of the competitive dynamics.

7. This was the approach we took to analysing advertising prices in our 27 May 2016 report. Contrary to Covec’s finding, we found that actual advertising prices have been falling overall in nominal terms, and therefore even further in real terms, in recent years for the newspapers we analysed (including *The New Zealand Herald* and *The Dominion Post*).⁴ Figure 1 below shows nominal advertising prices for these two papers in particular. Note that due to the scale of the graph, advertising prices for *The Dominion Post* []. However, as shown in Figure 2, which plots nominal advertising prices for just *The Dominion Post*, [].
8. Figure 3 shows advertising volumes (in column cm) for *The New Zealand Herald* and *The Dominion Post*.⁵ Along with the decline in newspaper advertising volumes, and an increase in online advertising volumes, we concluded in our 27 May 2016 report that this evidence suggests there is substitution between advertising in newspapers and advertising online. We note that Covec does not dispute this conclusion (at [73]).⁶

Figure 1
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Figure 2
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Figure 3
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9. At [34], Covec states (regarding the advertising rate card prices) “these data suggest that there is direct competition for advertising” between *The New Zealand Herald* and *The Dominion Post*. The justification for this statement is not clear, but could be based on Covec’s earlier argument that advertising rate card prices charged by both newspapers appeared to drop at the same time in November 2012. However, as can be seen from Figure

⁴ See section 2.3.2 of our 27 May 2016 report.

⁵ The data we have for *The Dominion Post* is from 2012-2015, while data for *The New Zealand Herald* is over the slightly longer time period of 2011-2015.

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1, Figure 2 and Figure 3 above, there is a difference in how the prices and quantities between these two newspapers have moved, albeit that all are dropping.

10. In any case, correlation does not necessarily imply causation, and correlations on their own are generally not seen as a reliable test of whether products compete.⁷ Rather, they should be supported by some theory.⁸ In this regard, it seems unlikely that *The New Zealand Herald* and *The Dominion Post* would compete for advertisers – Auckland or Wellington advertisers are unlikely to view the other region’s metro daily newspaper as a viable alternative as they would miss out on advertising to their local market, while national advertisers tend to advertise in both papers,⁹ which is consistent with an element of complementarity so as to reach a wider audience.
11. Indeed, if it was correct that there was a correlation in rate card prices from November 2012, another explanation would be an exogenous force at play. But the Covec report does not explore this possibility.
12. Finally, even if Covec’s contention was correct that there is direct advertising competition between *The New Zealand Herald* and *The Dominion Post*, as noted Covec does not dispute that print and online advertising compete. Accordingly there would be a strong competitive constraint on the merged entity from online advertising providers, including Google and Facebook (see our 27 May 2016 report).

2.3. Readers

13. On the reader side of the market, Covec analyses cover prices and circulation to calculate implied own-price elasticities over the 2004-2015 period of -0.24 for *The Dominion Post* and -0.28 for *The New Zealand Herald*. Covec’s estimated elasticities are calculated by comparing price-quantity combinations over this period. However, estimating elasticities should be based on small changes in price-quantity combinations that lie on the same demand curve.¹⁰ Covec has not done this – its analysis is based over a long time period in which there are likely to be many factors that shift the demand curve. Covec may therefore be comparing points on different demand curves.

⁷ See, for example, Baker (2007, p152), noting that price comparison approaches, including correlations, “are generally not useful as an approach to market definition” (Jonathan B. Baker (2007), “Market Definition: An Analytical Overview”, *Antitrust Law Journal*, 74, 129-169).

⁸ And potentially also other empirical evidence suggesting a substitutable relationship – as noted by Baker (2007), *op cit*.

⁹ Of the top 50 advertising customers in *The Dominion Post* in 2015, [] also appear in the list of the top 50 display advertising customers for *The New Zealand Herald* in 2015.

¹⁰ Davis and Garces (2010, p.185) note that, in estimating demand elasticities using “shocks” to price, care should be taken to ensure that the shock is “genuinely exogenous and not determined by market conditions affecting consumers or competitors” (Peter Davis and Eliana Garces (2010), *Quantitative Techniques for Competition and Antitrust Analysis*, Princeton University Press). Similarly, Baker (2007, p.139) notes regarding analysis of quantity responses to price changes that this analysis can be valuable “[i]f there is good reason to believe that the price or cost changes did not result from a shift in demand” (Baker (2007), *op cit*).

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14. In fact, the more robust approach for estimating elasticities is to use econometrics, so as to use a longer timeframe of prices and quantities, while controlling for other factors that influence demand. As Covec acknowledges (see Covec's footnote 9), it has not taken this approach. Nor does Covec take account of the two-sided nature of the market – econometric estimates of elasticities in two-sided markets model demand by taking into account cross-platform effects across the two sides of the market.¹¹
15. Covec's elasticity "estimates" are also inconsistent with those found in the literature. As we noted in our 27 May 2016 report, Filistrucchi, Klein and Michielsen (2012), using econometric analysis that takes into account the two-sided nature of the market and the impact of the internet, find an elasticity of demand for newspaper readers of -1.75.¹²
16. Even if we were to rely on Covec's elasticity estimates, it may be that the longer time series analysed by Covec is masking recent trends. Indeed, Covec's Figure 5 shows a divergence in the cover price and cover price revenue lines from around 2012 onwards.¹³ This suggests that the elasticity has increased markedly from this point onwards. Assuming for the moment that Covec's elasticity calculation methodology is appropriate, if we were to follow the same methodology and calculate elasticities in recent years:
- For *The Dominion Post*, the data we have shows that retail sales fell by [] from 2013-2015, while cover prices increased by 18%, implying an elasticity of [];¹⁴ and
 - For *The New Zealand Herald*, we have data for a slightly longer period from 2011-2015, which shows retail sales falling by [] with the cover price increasing by 30%, implying an elasticity of [].¹⁵
17. Accordingly, little weight should be placed on Covec's conclusion (at [37]) that newspaper readers are not particularly price sensitive. Rather, the evidence suggests that substitutes for newspaper reading are becoming more economic.
18. For example, while Covec points out (at [40c]) that the nzherald.co.nz and Stuff websites were launched in 1998 and 2000 respectively, the growth in these websites has been stronger in more recent years. As can be seen in Figure 4 below (with trend lines overlaid), the rate of

¹¹ See, for example, the model in Lapo Filistrucchi, Tobias J. Klein and Thomas O. Michielsen (2012), "Assessing Unilateral Merger Effects in a Two-Sided Market: An Application to the Dutch Daily Newspaper Market", *Journal of Competition Law and Economics*, 8(2), 297-329.

¹² Filistrucchi, Klein and Michielsen (2012), *op cit*.

¹³ We note also that Covec's conclusion in [40c] regarding websites not materially affecting reader-side revenues appears to ignore this divergence.

¹⁴ We have used the cover price of the weekday edition of the newspaper, while retail sales cover both the weekday and Saturday editions (as we do not have the data to separate these out). In addition, we have excluded subscriber sales from our calculations, as subscriber prices may move differently from cover prices depending on the extent of discounting.

¹⁵ As with *The Dominion Post*, for *The New Zealand Herald* we use the cover price of the weekday edition, but retail sales that cover both the weekday and Saturday editions (as we do not have the data to separate these out). We have also excluded subscriber sales from our calculations.

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growth of unique browsers for both websites has been increasing.¹⁶ The data underlying the graph covers website visits to Stuff and nzherald.co.nz from desktop, mobile and tablet (excluding app visits). In Figure 5 below we show unique browsers for the nzherald.co.nz app specifically, which also shows increasing popularity in recent years.

Figure 4
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Figure 5
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19. Likewise, the use of smartphones and tablets as tools to go online has been increasing. According to an Ofcom study of adult media use in the UK,¹⁷ the percentage of adults who say they use smartphones to go online inside or outside the home has increased from 28% in 2009 to 61% in 2014, and for tablets this has increased from 6% in 2011 to 39% in 2014.
20. Turning now to the evidence reported by Covec showing that cover prices are rising while circulation is decreasing, this is consistent with the evidence in our 27 May 2016 report, and is indeed an intriguing result. Covec’s explanation is that each newspaper has market power – each can impose a SSNIP profitably, and regularly. From this, Covec concludes that print and online do not compete (at [80]).
21. However, if we step back, this is quite an odd explanation. It is difficult to see how the market power of newspapers could be increasing at a time when there is increasing use of the internet for reading news.¹⁸
22. The problem with the Covec analysis is that it ignores the two-sided nature of the platforms. As we set out in our original report, Pattabhiramaiah, Sriram and Sridhar (2014) have studied exactly this phenomenon of increasing prices in the presence of declining demand in US newspapers.¹⁹ These authors concluded that the majority of the price increases can be ascribed to a two-sided market related rebalancing of prices between readers

¹⁶ []

¹⁷ Ofcom, “Adults’ media use and attitudes”, report 2015. http://stakeholders.ofcom.org.uk/binaries/research/media-literacy/media-lit-10years/2015_Adults_media_use_and_attitudes_report.pdf

¹⁸ See, e.g., the discussion in section 2.3.3.1 of our 27 May 2016 report. Consistent with this, between 2013 and 2014, the percentage of adults in the UK using the internet to visit news sites and apps at least once a week increased from 35% to 42%. Ofcom Report 2015, *op cit*.

¹⁹ Adithya Pattabhiramaiah, S. Sriram and S. Sridhar (2014), “Rising Prices under Declining Preferences: The case of the U.S. Print Newspaper Industry”, Working paper.

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and advertisers – the falling demand by advertisers for print advertising has reduced the incentive to subsidise readers at the expense of advertisers, so there is a rebalancing of prices in this regard.

23. The literature more generally identifies this sort of rebalancing as a feature of two-sided markets. Rochet and Tirole (2006, p.659) refer to the “seesaw principle” as “a factor that is conducive to a high price on one side, to the extent that it raises the platform’s margin on that side, tends also to call for a low price on the other side as attracting members on that side becomes more profitable”.²⁰ Similarly Ordober (2007, p.183) notes regarding two-sided markets that “changes in market conditions can prompt the platform owner to rebalance prices”.²¹
24. More generally regarding print and online competition, the Covec report states (at [73]) that the citations at paragraph 12.11 of the Fairfax/NZME application do not support the view that print and online compete on the reader side. However, this is not correct – for example, the applicants cite an Ofcom assessment from 2011 directly stating that consumers make use of a multitude of media sources.²² Ofcom states that “[t]he constraint from online, in particular, may have increased, and has contributed to the decline in the consumption of local newspapers. As use of the internet increases, this constraint is likely to become ever stronger”. Ofcom also states that “[t]he willingness and ability of consumers to use different media sources to access a variety of local content provides some indication of a degree of direct competitive constraint on the pricing behaviour of local newspapers”.
25. Similarly in its decision regarding the Bauer/APN merger in 2014, the Commission found regarding competition between print and online magazines that “We have determined that the proposed acquisition is unlikely to substantially lessen competition in this way because if, post-acquisition, Bauer attempted to increase prices, sufficient consumers would switch to other substitutes, including in particular online provision of similar content”.²³
26. Furthermore, in its recent decision to not oppose the acquisition by Seven West Media of certain news assets of New Limited in Western Australia, the ACCC stated that “overall, a sufficient range of news choices would remain available to Western Australians, with competing online options including Fairfax’s WAtoday and ABC online, as well as TV and radio news”.²⁴

²⁰ Jean-Charles Rochet and Jean Tirole (2006), “Two-sided markets: a progress report”, *RAND Journal of Economics*, 37(3), 645-667.

²¹ Janusz A. Ordober (2007), “Comments on Evans & Schmalensee’s “The Industrial Organization of Markets with Two-Sided Platforms””, *Competition Policy International*, 3(1), 181-189.

²² Ofcom (2011), “Local media Assessment on the proposed acquisition by the Kent Messenger Group of seven Kent newspaper titles from Northcliffe Media”, 31 October.

²³ Commerce Commission (2014), “Bauer Media Group (NZ) LP and APN Specialist Publications NZ Limited”, NZCC 1, at paragraph [61].

²⁴ See <http://registers.accc.gov.au/content/index.phtml/itemId/1198464/fromItemId/751046>

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27. Regarding evidence in our 27 May 2016 report of substitutability between print and online from a reader perspective, Covec states (at [74]) that it does not find our report helpful on this point. As is widely documented in the economics literature,²⁵ and noted also by Covec (e.g., at [13]), a key consideration in defining markets for antitrust purposes is to consider the extent of consumer switching. The evidence we reported in our 27 May 2016 report, of declining newspaper readership while online news readership increases, is strongly suggestive of a substitutability relationship between newspapers and websites on the reader side. We also noted in that report that this relationship is supported in the economics literature.²⁶
28. As further evidence, in a news consumption survey by The Pew Research Center,²⁷ between 2010 and 2012 there was a 7% decrease in those who said they got their news the previous day from a traditional platform only (including TV and radio as well as newspapers), a 4% increase in those who said they got their news from a digital platform only, and a 3% increase in those who used both platforms. However, the number who stated they did not view any news the previous day remained at a static 17%. This supports the argument that there is increasing substitution to digital news from traditional platforms as well as growing competition between the two in the eyes of consumers, while the demand for news itself is not decreasing.

2.4. Online audiences

29. At [82] and [83], the Covec report makes the argument that the current constraint on Fairfax and NZME implementing paywalls is the illegality of colluding.
30. In support of this argument, the Covec report firstly refers to the “international popularity” of paywalls [82]. While it appears to be the case that many news media globally do have some form of paywall,²⁸ it is less clear whether these paywalls are considered to be successful. There is evidence of publishers removing paywalls,²⁹ and *The Economist* notes that for most

²⁵ See, e.g., Baker (2007), *op cit.*, at p.129; and Massimo Motta (2004), *Competition Policy: Theory and Practice*, Cambridge University Press, at pp. 102-103.

²⁶ This is an example of (negative) correlation being supported by a solid theory of causation and other empirical evidence.

²⁷ “In a Changing News Landscape, Even Television is Vulnerable. Trends in News Consumption: 1991 – 2012”, The Pew Research Center, 2012.

²⁸ The Bloomberg article referred to by Covec states that more than 400 publishers in the US and Canada have some form of paywall (<http://www.bloomberg.com/news/articles/2013-11-14/2014-outlook-online-publishers-paywall-strategy>), while a 2014 poll by the International News Media Association (INMA) of 45 global newspaper companies found that 73% had some sort of paywall (<http://www.inma.org/blogs/ahead-of-the-curve/post.cfm/the-state-of-paid-content-for-free-for-a-fee-or-somewhere-in-between>).

²⁹ Examples include: *Newsweek*, a US national news magazine and website, which dropped its paywall in February 2016 (<http://www.newsweek.com/newsweek-drops-paywall-425067>); The Sun, a UK tabloid newspaper and website, which dropped its paywall in November 2015 (<http://www.thesun.co.uk/sol/homepage/6709792/Sun-content-is-free-to-access-from-November-30-2015.html>); The Toronto Star, a Canadian newspaper, which dropped its paywall in March 2015 (<https://www.thestar.com/news/gta/2015/03/07/note-to-readers-star-to-end-paid-digital-subscriptions-on-april-1.html>); and The San Francisco Chronicle, which dropped its paywall in 2013 after only four months (<http://www.bloomberg.com/news/articles/2013-11-14/2014-outlook-online-publishers-paywall-strategy>).

“general-interest” news, paywalls have not worked well, with readers tending to consume nothing more than the free content.³⁰ The evidence filed by NZME [] is also supportive of this.³¹

31. The Covec report then posits that Fairfax and NZME are involved in a prisoners’ dilemma game. A prisoners’ dilemma game in this instance would involve each of Fairfax and NZME making a decision to either implement a paywall or not implement a paywall, for which each would receive some particular payoff. An illustrative example is shown in Table 1. The payoffs are purely hypothetical, but it is the relativities between the payoffs that matter for the proposition being made by Covec.³²
32. The critical feature of a prisoners’ dilemma game is that both parties would be better off if they could coordinate (remain silent in the eponymous game, or “paywall, paywall” in Table 1), but the Nash equilibrium is for both to “betray” each other (“no paywall, no paywall”, the grey shaded box in Table 1).

Table 1
Illustrative example of prisoners’ dilemma to implement paywalls

Fairfax	NZME	
	No paywall	Paywall
No paywall	\$5m, \$5m	\$15m, \$3m
Paywall	\$3m, \$15m	\$10m, \$10m

33. However, there are two problems with the application of the prisoners’ dilemma in the present case. Firstly, it assumes that there are only two players (Fairfax and NZME) making the paywall decisions. However, in reality there are multiple existing news companies including TVNZ, Mediaworks and RNZ. The presence and decisions of these companies may also affect the success (payoff) of any paywall implemented by Fairfax and NZME. For example, even if Fairfax and NZME did both implement a paywall, this might be undermined by diversion to the news websites of TVNZ, Mediaworks and RNZ.
34. Secondly, []. Both parties have modelled the profitability of introducing a paywall, and they have filed this modelling with the Commission.
- a) []; and
- b) []
35. Accordingly, []. Therefore the prisoners’ dilemma is not an appropriate framework to apply in the present case.

³⁰ *The Economist*, “Up against the paywall”, 21 November 2015.

³¹ NZME Response to Commerce Commission Questions of 4 August 2016, p.13.

³² The same relativities in payoffs are shown in textbook examples of the prisoners’ dilemma game – see, e.g., Robert S. Pindyck and Daniel L. Rubinfeld (2009), *Microeconomics*, Seventh Edition, Pearson-Prentice Hall, at 462-463.

2.5. Constraint from two-sidedness

36. At [41] Covec critiques a quote (referred to in the clearance/authorisation application) by a former Chair of the Commission regarding the “inbuilt mechanism for preserving competition” in two-sided markets. Covec states that this is not correct, and two-sided markets “can limit or moderate pricing decisions” but do not “preserve competition”.
37. Regardless of the terminology used to describe it, there is a constraint that comes from the two-sided nature of the market. We discussed the nature of this constraint in our 29 July 2016 report.³³ The ACCC has correctly recognised this constraint in respect of the Western Australia news merger referred to earlier, stating that “*The ACCC also considered that, in the face of growing competition from alternative advertising opportunities, the need for [Seven West Media] SWM to maintain readership levels in order to ensure advertising revenues would constrain SWM and likely limit its ability to increase prices to consumers or decrease quality as a result of the proposed acquisition.*”³⁴
38. We note also the Covec comment at [43], which appears to be suggesting that cross-platform externalities that lead to low pricing on one side of the market may be considered predatory. As Wright (2004) notes, however, this is a common fallacy that arises from applying “one-sided logic” in two-sided markets.³⁵ As Wright (and others³⁶) make clear, a low price on one side of the market can reflect the balancing act required for setting prices in two-sided markets, and “it would make no sense to think of this as predation”.³⁷

3. Cluster markets

39. In section 3 of its report, Covec refers to the cluster market concept, which we referred to in our 29 July 2016 report responding to submissions on the Commission’s SOPI. Covec suggests (at [51]) that we used the cluster market concept to argue that the market is broader than the five firms of Fairfax, NZME, TVNZ, Mediaworks and RNZ.
40. Covec appears to have misinterpreted our argument here. We argued the market is broader than these five firms, because the cluster market framework does *not* apply.³⁸ Consistent with Covec’s proposition at [53], we observe a wider set of firms in the market, some with specialist offerings, which implies the market is broader than just Fairfax, NZME, TVNZ, Mediaworks and RNZ.

³³ See section 2.1 of our 29 July 2016 report.

³⁴ See <http://registers.accc.gov.au/content/index.phtml/itemId/1198464/fromItemId/751046>

³⁵ Julian Wright (2004), “One-sided Logic in Two-sided Markets”, *Review of Network Economics*, 3(1), 44-64.

³⁶ See, e.g., David S. Evans and Richard Schmalensee (2013), “The Antitrust Analysis of Multi-Sided Platform Businesses”, NBER Working Paper 18783, at p.34.

³⁷ Wright (2004), *op cit.*, at p.48.

³⁸ In our 29 July 2016 report we explained the factors that may make it appropriate to define a cluster market (economies of scope on the demand and supply side), and then explained how these factors do not apply due to the impact of the internet reducing economies of scope.

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41. In its section discussing cluster markets, at [50] Covec refers to the behavioural economics concepts of “acquisition utility” and “transaction utility”. Acquisition utility can be understood as the measure of value a consumer would place on a good as a gift, minus the price paid – similar to the concept of consumer surplus. Transaction utility, however, measures the pleasure or displeasure returned from the transaction itself. To use Richard Thaler’s example:³⁹ you are lying on the beach and a companion gets up to buy a beer from the only nearby place where beer is sold, and asks how much you are willing to pay for it. If the place to purchase the beer is a small grocery store, you will say \$1.50, while if the place is a fancy resort, you will say \$3. Acquisition utility cannot account for this difference – the value of the beer should remain the same to you regardless of where it is purchased (assuming it is the same brand). Transaction utility explains this change in price, based on the reference price you have developed in expectation (\$2 for the beer at a grocery store might seem extortionate, while \$2 at the resort might feel like a steal). Total utility for a good is then derived from your acquisition utility plus the transaction utility.
42. Covec then segues into an empirical study that applies another behavioural economics theory through the concept of all-you-can-eat (AYCE) restaurants. Conventional utility maximization implies that you will only eat until your next bite of food no longer gives you satisfaction, meaning that although price may determine whether or not you eat at the restaurant, once inside it should not factor into the amount you consume. However, the study finds that consumers who paid full price for their AYCE entrance consumed 38% more food than their half-price counterparts. This could be interpreted as consumers being driven to “get what they pay for,” demonstrating the sunk cost fallacy.
43. The Covec report does not apply any of these behavioural economics theories to the proposed Fairfax/NZME merger, and it is not clear to us that the theories have any relevance. Perhaps the implication is that people may choose to read more articles from the newspaper they purchase if there were an increase in price. However, this does not speak to consumers’ behaviour in their choice to purchase the paper or not, and we find it difficult to see the relevance of this to the proposed merger.

4. Media plurality

44. In section 5.1, the Covec report discusses the topic of “competition in ideas”. While it is not completely clear to us, we think the purpose of the discussion is to make the case that plurality is a competition issue.
45. Whether plurality is an issue the Commission should consider is ultimately a legal issue. However, we have the following comments in respect of the Covec discussion:
- a) The quote from Justice Holmes (at [64] of the Covec report) comes from a case about free speech, not a competition (antitrust) case;

³⁹ Thaler, R. (1999), “Mental Accounting Matters”, *Journal Of Behavioral Decision Making*, 12(3):183-206

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- b) At [65] and [66], the Covec report draws on the merger clearance/authorisation application to argue that the applicants view plurality as simply a variety of programs, and assumes that “news and editorial content is just another category”. However, this ignores the following arguments in the application (particularly [20.17]), which specifically states that the merged company will need to engage “from across the spectrum of views” among consumers; and
- c) While the Covec report quotes [38] of the ACCC’s draft media merger guidelines, the Covec report fails to quote the preceding paragraph, which states: “*[The Broadcasting Services Act] rules are directed at preserving diversity in media markets. By comparison, the key purpose of the merger provisions of the Competition and Consumer Act 2010 is to protect competition in markets in Australia, including media markets, by prohibiting mergers that are likely to substantially lessen competition in any market.*”

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