The Commerce Commission
PO Box 2351
WELLINGTON 6140

Dear Sir/Madam,

Submission on Proposed Merger of Fairfax & NZME (APN) Businesses in New Zealand

It is requested that all of this submission be kept confidential.

Position statement: I strongly oppose this merger.

Interests statement: I do not own or have or represent any business or financial interest in any media, broadcasting, advertising, entertainment, sports or news service or business.

I want to make the following points in opposing the merger,

1. In many countries, the existing duopoly of Fairfax and NZME (APN) would never have been allowed on the grounds of restriction of competition. Therefore Fairfax and NZME/APN already have and enjoy a privileged market position. This duopoly will already be very strongly restricting new entrants to the business, a situation the Commerce Commission should never have allowed in the first place.

2. I will argue that companies that are original content providers will always have a viable business, even though different means/channels of reaching audiences may be invented or come in or out of favour. In other words, content will always triumph over the means of reach. Evidence for this is as follows.

3. The Hollywood film-making business has existed since at least 1920. It still exists today, despite massive changes in the channels or means of audience reach, because content always triumphs over channel. And the content owners only hired or leased their content, they never gave it away for free. In fact, the invention of new channels (TV, cable, satellite, VCR, DVD, on-line and on-demand) has only served to enhance and hugely increase the value of original content. I cannot prove that this may have happened a little with the news content produced by both NZME and Fairfax, but I suspect it has happened.

4. Content hosts (which is what Google search, Facebook, YouTube and most similar others are) are actually quite vulnerable businesses. Because they only host content, they don't own it or control it. It will only take some new digital model to appear (such as allowing the content owners to receive full payment or more payment for their content), then the content will shift away, leading to a possible collapse of the business model that they use now.

5. The merger parties may claim that large digital companies overseas (such as Google, Facebook, etc) are largely to blame for the declining advertising revenue at their print with-website business. I claim that a significant part of the blame may rest with these two companies themselves. They have run down the quality of their content in publications to the point that many readers don't have the respect for newspapers they once had. Evidence in support of this is that despite the digital revolution, a large number of magazines have maintained their circulations and been largely untouched by the revolution. They have done this because they have maintained the quality of their content.

6. In support of the above, one only has the look at a typical print edition of the "*New Zealand Herald*". Not only are the owners putting the cover price up, but the newspaper has only 4 to 6 news stories of interest to educated readers. There are many stories about media "personalities" or "celebrities". Then there are 6 to 8 or more pages of sports news. Such an uncomfortable mish-mash of focus and content. Are the editors and managers being mislead by the disastrous tool of market research "focus groups"? Disastrous because people don't buy newspapers in groups, the buying decision is made individually and privately.

7. It is suggested that the management of the proposed merger companies are still catching up with the digital revolution. I believe they eventually will master the technique, their advertising revenue will rise and their business model will stabilise, if not make some kind of recovery. Their busiest websites get a huge number of visitors (daily, weekly) but they have still to master the best technique of matching advertisers to this very large number of users. Other online industries are able to survive on small fractions of this vast flow of web visitors, so it raises a question about the quality of management of both the two media companies.

8. An interesting example of the impact of the digital revolution on another industry is illuminating for the situation before the Commerce Commission. In the early days of the internet, the USA hotel industry became strongly impacted by online booking sites that simplified, sorted and speeded the process of reserving hotel rooms. Even more impact came when the new websites (for example, Expedia, Travelocity, and others) started replacing traditional travel agents by also offering air travel and rental cars as well as hotel rooms. USA hotel businesses (both independent and chain hotels) started feeling squeezed by the new travel websites demanding bigger discounts and other business concessions as the public increasingly switched from traditional travel agents to the new travel websites. The hotels were afraid they could not refuse the demands of or upset the new travel websites because such a large and rising proportion of reservations were coming from that source.

9. As a reaction to the above loss of control, the hotel industry did some deep soul searching. Consultants told them that that as long as they allowed the new travel websites to orchestrate the whole industry by setting prices or demanding room rates, the hotels will always suffer. The way out of the predicament was for the hotels to remove more and more of their room stock from the travel websites and sell/market those rooms via their own websites, provided they told the public that the best deal (lowest price) was always on the hotel's own website. Gradually this new formula started working and the hotels gained much more control of their business from the travel websites. So today, the travel websites don't rule over the hotel business like they briefly did. Hotel owners have taken back a lot of control.

10. By analogy, in the news media, the newspapers are the hotels and the digital impact is coming from the likes of Google, Facebook and others. However the news media have not yet taken back control of their product (their content). But I strongly believe one day they will, it is just a matter of time. And they will better match advertising to web users. Both of these

changes will strengthen the businesses of the news media and will weaken the impact of Google, Facebook and others.

11. Google is estimated to enjoy a market share over 90% in Australia for some categories of internet advertising spending (according to the Morgan Stanley Report "Australia Media, Internet & Technology", 27 Jan 2016, page 9). The market share in New Zealand may be similar. In time, I believe the competition authorities in Australia, Europe and other countries will find ways to enforce a statutory reduction in Google's market share to below 50%. Under this scenario, new alternatives and competitors to Google will emerge and this is very likely to allow companies such as Fairfax and NZME many new opportunities for revised or new business models, especially those that monetize more of their original content. Therefore there is good potential for a significant future rise in revenue and this removes the need (as argued by the merger parties) for a merger of the two New Zealand businesses.

Therefore, for the multiple reasons above, the Commerce Commission must prohibit this merger. To allow it will severely limit competition, in a situation where the merger parties already enjoy a privileged position because they were mostly created before New Zealand competition law became formalised.