



March 4, 2022

Commerce Commission
Level 9, 44 The Terrace
Wellington 6011
Attention:

Dear

Further information to assist the NZCC with its assessment of NPA's application for authorisation

We refer to the submission by Manatū Taonga (**the Submission**) dated 4 February 2022, provided in response to the Statement of Preliminary Issues published by the Commerce Commission in relation to the News Publishers' Association of New Zealand Incorporated's (**NPA**) application for authorisation to collectively bargain with digital platforms such as Meta (**Application**).

The purpose of this letter is to provide further information and evidence to the Commission to assist it with its assessment of the Application and, in particular, to clarify and correct certain incorrect information contained in the Submission.


This letter contains highly confidential, commercially sensitive information which is provided to the Commission on a confidential basis. This confidential information is marked in **yellow highlighting**.

Firstly, it is important to re-emphasise the nature of the commercial agreements Meta enters into with publishers. As mentioned in our original submission, Meta does not enter into commercial agreements to pay for existing publishing behaviour such as news businesses voluntarily posting links to Facebook. We have entered commercial agreements in a number of countries with relevant publishers who have the capacity to provide new content or access to content that was not previously available to the Facebook audience. It is not accurate to assume that every publisher in New Zealand, nor any other country including in Australia, is suited for a commercial deal, which is why we also invest in partnership support, new tools to optimise monetisation, programs such as the Accelerator initiative, and grant funds to assist all publishers with building strong commercialisation models utilising our services.

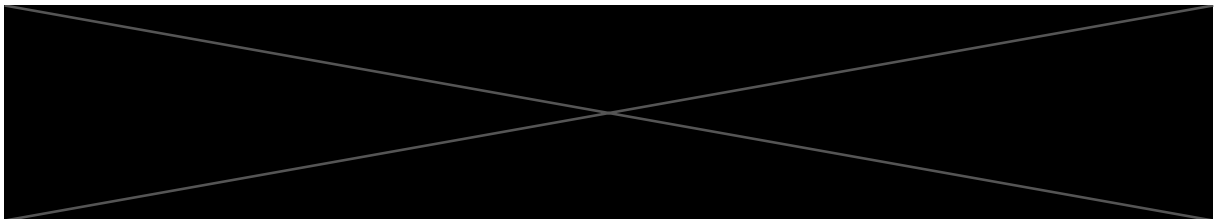
The Submission mischaracterises the commercial engagement between Meta and publishers in New Zealand

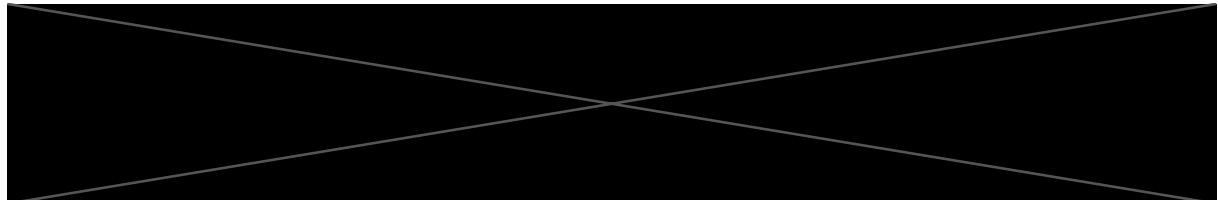
The Submission cites the “*limited number of New Zealand media companies that have been able to enter into commercial discussions*” as purported evidence of a bargaining power imbalance between news media businesses and digital platforms in New Zealand. It also cites an alleged “*lack of progress in commercial discussions*” as a potential basis for Manatū Taonga considering options to support New Zealand media companies to reach commercial arrangements with digital platforms.

These statements in the Submission fundamentally mischaracterise the approach that Meta has sought to adopt in commercial negotiations with New Zealand media companies. Firstly, because as noted above not all New Zealand publishers will secure a commercial deal given it will not be suitable for all publishers. Secondly, the submission does not accurately reflect the nature of deals concluded or being discussed.

In fact, as Meta has noted in its previous submissions to the Commission, Meta has commenced – and is actively pursuing – commercial discussions with a number of New Zealand media companies. This includes both large and smaller media companies, as well public, regional and Māori publishers. Meta has concluded one commercial deal to date (with The Spinoff), 







In addition to these commercial discussions, Meta recently announced the 13 news organisations selected to participate in the Meta Aotearoa Audience Development Accelerator with associated grant funding (see <https://www.facebook.com/journalismproject/accelerator/new-zealand-challenge-2022-participants>), and has also continued its significant investment in tools and programmes to support the New Zealand media industry as detailed in our submission dated 11 February 2022.

The Submission is therefore not accurate to suggest that New Zealand media companies have not been able to enter into commercial discussions with Meta, or to imply that responsibility for

any lack of progress results from an approach adopted by Meta.

The Submission is inconsistent with an independent report that Manatū Taonga has commissioned

The Submission does not seem to rely on the independent report by Sapere, which was commissioned and received by Manatū Taonga in 2021, and published on its website in February 2022 (see <https://mch.govt.nz/sites/default/files/projects/sapere-report-media-plurality-nz-feb22.pdf>).

Indeed, a number of statements in the Submission seem to be inconsistent with the findings and conclusions set out in the report.

In particular, the Sapere report concludes that:

- there is no plurality justification to require digital platforms to pay news firms for linking news content;
- Facebook redirects consumers to original news sites where their presence generates advertising revenue for the content creator. This delivers significant value to news firms and is market expansionary;
- if news businesses consider that the negative impact that Facebook and Google are having on their businesses outweigh the benefits they receive then they can opt-out or restrict the availability of their content;
- there is no clear basis to believe that requiring digital platforms to pay specific news firms will result in public-interest or better quality journalism. In fact, it is reasonable to believe that this would:
 - reduce pressure on news firms to innovate and explore news business models; and
 - only benefit larger news firms rather than smaller start-ups; and
- regulatory intervention could raise competition issues and will have implications for incentives to invest and provide services to New Zealanders.

It is not clear why the Submission does not rely on the independent report.

The only evidence mentioned in the submission references findings in an ACCC report, which are disputed and which are unlikely to be directly able to be applied to the New Zealand market.

As a result, it is not clear to Meta the basis of the views set out in the Submission, or why it was appropriate to express views about relative merits of hypothetical commercial arrangements and potential regulation, and what that would achieve for news media and journalism to assist an independent, competition regulatory authorisation process.

Confidentiality

Certain information (as marked) contained in this letter is confidential and commercially sensitive to Meta, and disclosure would be likely to unreasonably prejudice our commercial position. Meta asks that it be notified if the NZCC receive any request, including under the Official Information Act 1982, for the release of any part of the information in this letter.

Further questions

If the NZCC has any questions in relation to any of the confidential information provided in this letter, Meta would be pleased to assist.

Yours sincerely



Mia Garlick
Director of Public Policy, ANZ and Pacific Islands
Meta