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July 1 2016

The Registrar

The Commerce Commission

RE: NZME/FAIRFAX PROPOSED MERGER – AUTHORISATION APPLICATION

COMMERCIAL-IN-CONFIDENCE

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BACKGROUND TO THIS SUBMISSION

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LIKELY IMPACT OF THE PROPOSED MERGER

This submission seeks specifically to address paragraphs 16, 19, 21, 22 and 32 of the Statement of Preliminary Issues:

- 16: “the detriment that may result from the substantial lessening of competition against the public benefits the merger may bring about”;
- 19: “in assessing detriments we only consider anti-competitive detriments that arise the markets we find a substantial lessening of competition and these are *typically associated* with a decrease in efficiency” (*our emphasis*);
- 21: “whether the merged entity ... will be able to reduce the quality of the services it provides to readers” including “the ability for new suppliers to enter the market of for existing suppliers to expand”;
- 22: areas of overlap: “the provision of digital news/information content between Fairfax’s stuff.co.nz and NZME’s nzherald.co.nz;
- 32: The extent to which content is created with a specific platform in mind (print, digital or radio); and
 - Whether there are separate ‘content markets, defined by specific subject matter of focus of the news/information (for example New Zealand or regional news). **We regard this latter point as the more significant.**

Addressing each in turn:

- 16: []. By merging, NZME and Fairfax go from the two most substantial media players for wholesale text content in the New Zealand market to one. [];
- 19: In the context of journalism, we suggest that an ‘efficiency’ test should include consideration of the efficient promulgation of public information. A diverse range of alternative sources of news is essential not only to the operation of a democratic society, but also to a well-informed market and citizens. Economic and commercial news bear on the essence of the nation’s well-being. A reduced range of journalistic output is inherently ‘inefficient’ in that it discourages the examination and elucidation of a wider range of business and economic issues than would otherwise be the case. **It is inherently anti-competitive in the sense that one of the benefits to the news consumer is the competition of ideas, points of view and judgements as to ‘what matters’ to an informed society;**
- 21: New suppliers, both wire-type wholesale content services and freelance journalists will be severely constrained in their capacity to find a market for their work if there is a merger

between the two largest producers of New Zealand news content in the New Zealand market;

- 22:
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]. Our concern is that if the merger occurs, not only will that deeper coverage be lost, but the bedrock coverage will be performed by a smaller, rationalised team of journalists who will be serving a much larger readership than previously. The range and quality of news available to consumers will be limited as a result;

- 32: we respond in two parts:

- a) []. The only significant difference between the demands of the two media is that digital copy is generally shorter,
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]. However, there are practical distinctions between text and audio/video products, which require completely different production approaches;

- b) **There is, in our view, a very clear argument that New Zealand news is a distinct market in its own right.** NZME and Fairfax correctly argue that they are competing with international news sources, powered by global search engines and social media platforms such as Google and Facebook. However, neither Google nor Facebook produces New Zealand news content. They may aggregate or repost New Zealand news content, created by New Zealand news businesses, but they do not create it. **Without a viable range of New Zealand news content providers, consumers will lose access not only to diversity of interpretation and subject choice – both of which are essential to a vibrant news media environment – but will suffer the inevitable degradation in quality that is routinely associated with the absence of competition.** News is no different from any other product or market in this respect.

CONCLUSION

In our submission, as acknowledged by the parties' application for authorisation rather than clearance, the effect of the proposed merger is anti-competitive.

We submit that this loss of competitiveness is in the news as well as advertising markets, and that its impact on consumers is to reduce the range, diversity, depth and contestability of news coverage, to the detriment of public information, discourse and the accountability that is a vital function of the news media, for which there is no substitute.

In that sense, the loss of a competitive, diverse news media environment will contribute materially to the loss of a competitive, diverse commercial environment, to the wider detriment of New Zealand consumers.

To the extent that this slimming down of news media outlets has observably been occurring already, the NZME/Fairfax merger proposal, in our submission, represents the crossing of a fundamental

threshold of competitiveness from which New Zealand news media will struggle to recover and which will be to the detriment of news consumers.

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