

**NZME AND FAIRFAX RESPONSE TO COMMERCE COMMISSION QUESTIONS ARISING
FROM THE CONFERENCE ON 6 AND 7 DECEMBER 2016**

EXECUTIVE SUMMARY

1. During its recent Conference held on 6 and 7 December 2016, the Commissioners asked the parties to follow up on a number of points. This paper sets out the parties' responses on those questions, and also provides answers to some further follow-up questions that the parties have received since the Conference.

2. The main points that this response covers are as follows:

(a) **Inefficient duplication of commodity news (external plurality):** The Commissioners asked the parties to produce examples of "commodity" news coverage as between the five main media organisations being similar ("digger hits bridge" was provided as an example of where all the major media organisations covered effectively the same point). Reducing that duplication will be efficiency enhancing and will not materially detract from the volume or quality of news coverage.

(b) **A wide variety of perspectives are covered within each publication (internal plurality):** The editors provided the Commission with examples of how each publication covers a wide variety of perspectives, as that is what attracts the greatest audience. This is true both within and across each of the parties' publications. The Commission asked for examples, which are provided in this response, together with additional material about why those incentives do not change post-Merger.

(c) **Constitutional safeguards on editorial independence:** The Commissioners asked about what existing structures protected editorial independence and balance and fairness in reporting. This was asked both in the context of a possible future sale of Fairfax's stake, and in the context of the protections available to those subject to negative reporting seeking fairness and balance.

In respect of any change in ownership of Fairfax's stake in NZME, this paper provides more information about the Overseas Investment Office regime and its good character requirement for foreign acquirers of assets.

In respect of fairness and balance, that is the role of the Press Council to monitor and discipline. Since the Conference, the Press Council's role has been strengthened as it has acquired oversight of the broadcasters' digital news, which was previously undertaken by the Online Media Standards Authority. Coupled with NZME's commitment by deed poll to remain a member of (and so continue to fund) the Press Council, the enhanced membership of the Press Council provides the Commission with a high degree of confidence that NZME2 will continue to be scrutinised by an effective, independent organisation, for its compliance with a high standard of editorial conduct.

(d) **Allied Press does not have a silver bullet:** Allied Press made comments at the Conference that appeared intended to suggest that it operates a superior "print first" business model to NZME and Fairfax, and because of that it is able to better withstand the competitive pressures of online news sources, including Google and Facebook. However, even putting to one side the relatively smaller distribution of, and local attributes of the area serviced by Allied Press, it is clear that this is not the case. Readership is the key metric for advertisers.

That is the metric that drives their cost per user calculation. On the readership metrics it is clear that Allied Press' ownership and style of management of its mastheads is making no material difference.

- (e) **TVNZ, Newshub and RNZ are and will remain a serious competitive constraint:** It was suggested by TVNZ and MediaWorks that they and RNZ were small competitors that would be swamped by NZME2. This simply is not borne out by the fact that TVNZ takes the largest share of all advertising spend in New Zealand, and is already getting exposure of its online news videos at levels similar to stuff and NZME. Similarly, Newshub has more than doubled its audience since launch in January this year, and RNZ has more than doubled its audience over the last two years. There is no credible reason why that growth would not continue now those parties have already invested in their online news products, particularly if NZME2 were to try to reduce the quality or increase the price of its online news products. This response also explains why the Commission's metrics for measuring online media market share as set out in its Draft Determination do not present an accurate picture as they inadequately measure viewership via Facebook.
- (f) **Recent decisions of the ACCC reinforce the need to give appropriate weight to the interdependencies between the advertiser and reader sides when analysing competitive effects in print and digital news markets:** A focus of Commissioner questions at the Conference was to better understand how Google and Facebook are competing with the parties for advertising revenue and, how that affects the Commission's analysis of reader markets. In short, NZME2 has to compete with those platforms for audience in order to continue to attract advertising which is its primary source of funding. It is this interdependency that is the key relevant feature of two-sided media markets; that is, demand by audiences is, in part, related to the amount of advertising shown, while demand for advertising is related to the size of the audience that will ultimately view the advertisement. The ACCC has recently reinforced the importance of these interdependencies in the context of its decisions on publisher mergers, and it has also confirmed the competitiveness of community newspaper markets.
- (g) **The Merger is not just delaying the inevitable.** At the Conference the Commissioners asked for more detail on both the Factual and the Counterfactual. Additional reports submitted with this response demonstrate that in the Factual NZME2 will have the resources, and it already has the platforms and businesses, to benefit from the strong growth in digital advertising revenues, of which Facebook and Google are currently taking 80c in every new \$1.

The Merger therefore provides a real opportunity (like the one Trade Me took when faced with the international growth of Ebay) for NZME2 to [] create a sustainable business that (i) supports local journalism, (ii) is publically listed in New Zealand, and (iii) pays New Zealand tax.

NZME and Fairfax see this as an excellent opportunity for New Zealand journalism, other New Zealand media companies, New Zealand advertisers (including central and local government) and investors on the NZX (including ACC and NZSF). These are real benefits likely to result from the Merger that outweigh any concerns about concentration in ownership of (in any event non-overlapping) print products, in the converged and diverse market for New Zealand news and information.

CONTENTS

Executive summary	1
Part 1 – Internal and External Plurality	4
Part 2 – Allied Press Does Not Have a "Silver Bullet"	10
Part 3 – TVNZ, Newshub and RNZ are Serious Competitors	14
Part 4 – Interdependency of Reader and Advertiser Markets	17
Part 5 – Detailed Description of Factual vs. Counterfactual	22
Part 6 – Specific Financial Questions	25
Appendix One – Coverage of Digger Hits Bridge	26
Appendix Two – Fairfax Examples of Internal Plurality	42
Appendix Three – NZME Examples of Internal Plurality	47

PART 1 – INTERNAL AND EXTERNAL PLURALITY

Examples of "commodity" news coverage

3. During the Conference Fairfax and NZME explained to the Commission that part of the rationale for the Merger is to achieve cost synergies through the removal of duplicated frontline journalism – ie, duplication of coverage of fact reporting on "commodity" news stories. As explained to the Commission, only a very modest proportion of the total synergies are from the removal of frontline journalism. [].
4. In addition to synergies, an associated, and more important, benefit is that NZME2 will be able to re-deploy journalists that would otherwise currently be covering "commodity" news stories in a duplicative way, to enable NZME2 to broaden the coverage and diversity of journalism to attract greater audiences to its platforms.
5. In the context of that discussion, the Commission asked for an example of "commodity" news coverage where duplication could be avoided. Fairfax and NZME gave two examples of recent stories:
 - (a) Factual reporting on what John Key said at his resignation press conference (as opposed to commentary / analysis of the implications and his legacy); and
 - (b) The digger that hit the bridge on Auckland's motorway earlier in the year.
6. To give the Commission context for that response, **enclosed in Appendix One** are copies of the coverage from each of Fairfax, NZME, RNZ, TVNZ and Newshub on the day that the digger hit the bridge on Auckland's motorway in May 2016.

Examples of internal plurality

7. At the Conference the Commission heard from numerous journalists on behalf of Fairfax and NZME that there is no central editorial oversight of angles / views / opinions, and that internal plurality is driven entirely by the journalists within the organisation.
8. This diversity of viewpoint is an inevitable result of the fact that:
 - (a) The idea of fairness, balance, and impartiality is deeply rooted in the journalistic profession, and editors take great pains to ensure that different perspectives are given equivalent prominence.
 - (b) As individuals, every journalist writes from a different perspective, shaped by his or her own personal set of experiences and ideologies. There are as many different views as there are journalists within an organisation.
 - (c) In addition to publishing journalists' views, readers' views are also published. Stuff, for example, encourages contributions by readers as part of its Stuff Nation section, and has never edited or modified any Stuff Nation article beyond spelling and grammar corrections. Similarly, NZME through *The New Zealand Herald* gives prominence to letters to the editor, and also invites a range of user-generated views and opinions through its radio talkback segments.
 - (d) There is no centralised oversight of the material published on either Fairfax's or NZME's websites. Regional editors and editors or verticals (such as business, sport, entertainment) each have autonomy over the stories they publish, and are not answerable to each other, or obliged to modify or reconcile their respective views. By way of example, within NZME, *The New Zealand Herald*, *Herald on Sunday* and *Bay of Plenty Times* all have different editors, and

editorials / articles from each of those publications are used to provide content for nzherald.co.nz. Mr Currie, the Managing Editor of NZME, does not influence the editorial direction of those various mastheads / publications. The same is true in respect of Ms Boucher, and the various mastheads and websites, at Fairfax. The Merger will not change that.

- (e) As the Stuff and nzherald.co.nz platforms are 24 hour, 7 day a week platforms:
- (i) Even if an editor wanted to influence the views / opinions of a particular journalist (which they don't), it would simply not be possible for an editor to vet all of the content that is posted to those websites on a continuous basis. Stuff, for example, publishes 400 - 500 stories per day. Senior editors only become involved in relation to particular content if there are concerns it does not meet journalistic ethical / quality or legal standards. Beyond that, news editors publish content directly to the Stuff and nzherald.co.nz platforms.
 - (ii) Online editors for sites such as Stuff work in shifts and continuously replace each other. Each online editor will decide, based on performance and traffic measurement metrics, which stories to place where on the website.
- (f) As well as diversity being a natural consequence of the editorial structure and fundamental journalistic ethos described above, NZME2 will also continue to be strongly commercially incentivised to appeal to as wide a group of readers as possible, so as to achieve the greatest audience, and thereby present the most attractive proposition to prospective advertisers. These commercial incentives are reflected in the fact that Stuff, for example, when it includes an article / opinion piece looking at one angle on a debate will inevitably also include links to its articles / opinions on the same or related subjects exploring other angles. As media entities, NZME and Fairfax want to encourage debate, and cover as many different angles as possible, to drive audience attention and page views. As the Commission has heard, New Zealand does not have the population to make partisan, ideologically uniform publications commercially viable.

9. As requested by the Commission, Fairfax (at **Appendix Two**) and NZME (at **Appendix Three**) include examples of coverage of particular topics to demonstrate the internal plurality within their respective organisations.

Incentives to drive internal plurality will not change

10. One of the issues raised at the Conference in respect of plurality (by Mr Ellis) was a concern that the merged entity might have fewer editors across multiple publications – a choice driven by cost savings, and that this could affect internal plurality.¹
11. While there may be economies in having fewer editors across multiple publications, there are also countervailing commercial pressures, ie, pressures to have multiple editors, driven by the need to have diverse content and a wide range of views, as that attracts the widest audience and therefore also the most advertising revenue. This is illustrated by the fact that, despite there being enormous pressures to cut costs today, there are multiple editors under each masthead and across mastheads, and under each vertical, operated by each of NZME and Fairfax.
12. In particular, as noted at the Conference:

¹ See the comments of Gavin Ellis, transcript day 2, page 17, lines 31-34.

- (a) Stuff editor Patrick Crewdson noted that Fairfax's editorial structure is broken into geographic news rooms (Wellington, Auckland, Christchurch, etc), and verticals (sports, business, politics, etc), and under each there are many news editors making decisions on a continuous basis with the head of each news room and vertical having responsibility for their particular area;²
 - (b) Mr Crewdson also noted that the Stuff homepage has a team of editors who work in shifts throughout the day;³ and
 - (c) Shayne Currie, managing editor of NZME, noted that *The New Zealand Herald* has separate editors for its weekday and weekend editions,⁴ and that there are also separate editors for each of NZME's regional daily newspapers.⁵
13. So, while it would be cheaper in a narrow sense to have just one editor at each masthead or across mastheads, there are stronger countervailing set of commercial drivers that result in each of NZME and Fairfax retaining a broad set of editors – namely, (a) the need to have as diverse a range of coverage and views as possible in order to attract as large an audience as possible, and (b) the fact there is only so much content that any given editor can have editorial responsibility for.
14. These same commercial drivers will continue for NZME2 post-Merger, and Mr Ellis' concern is not likely to play out.

Constitutional safeguards on editorial independence

15. In the Conference, the Commission asked what "constitutional safeguards" it could rely on to give it comfort that NZME2 would not have owners in the future that could attempt to exert editorial influence.
16. Important context to the response to that question is that to the extent a person could purchase NZME2 in the Factual to exert editorial influence, it is equally true in the Counterfactual, ie, that two people could each purchase NZME and Fairfax to exert editorial influence over those organisations.
17. Additionally, the editors have made it quite clear that they would not work under such conditions, and to do so would be a breach of their code of ethics, professional standards, and the Press Council Standards.
18. In addition, the possibility of some unknown person acquiring Fairfax Australia's stake in NZME2 in the future is too speculative to form part of the Factual.
19. The High Court has previously cautioned that "[i]f the likelihood of the event occurring is remote, it is to be disregarded".⁶ That possibility is not, therefore, relevant to the Commission's analysis. In terms of future possibilities, it is equally possible post-Merger that the Government could decide to introduce a regulatory media ownership regime if it so wished. There is no factual basis to suggest that some future acquisition by some unnamed potential acquirer, that may or may not wish to exert influence on editorial independence, is more or less likely than the prospect of the Government introducing a regulatory media ownership regime in the future.
20. There is also the existing protection provided by the Overseas Investment Office ("**OIO**") process. The OIO is the government body that oversees the approval process under the Overseas Investment Act 2005 ("**OIA**"). As the Commission will be aware, the

² Transcript day 2, page 7, lines 13-17.

³ Transcript day 2, page 16, lines 9-10.

⁴ Transcript day 2, page 14, lines 22-24.

⁵ Transcript day 2, page 15, lines 28-31.

⁶ *Woolworths Ltd v Commerce Commission* (2008) 8 NZBLC 102,128 (HC) at [126].

current proposed Merger between NZME and Fairfax required OIO approval given it involved investment in "significant business assets", ie, where:

- (a) an overseas person acquires a 25% or more ownership or control interest in assets or shares, or establishes a business in New Zealand; and
- (b) the value of the interest, the assets of the target, the consideration provided, or the cost incurred in establishing the business, exceeds NZ\$100 million.

21. For transactions involving "significant business assets", the OIO will grant approval if it is satisfied the overseas person, or the individuals with ownership and control of the overseas person:

- (a) have demonstrated financial commitment to the investment;
- (b) have the business experience and acumen relevant to the investment;
- (c) are of "good character", which is a test that considers, in relation to the person ("**A**") making the investment, any:⁷
 - (i) offences or contraventions of the law by A, or by any person in which A has, or had at the time of the offence or contravention, a 25% or more ownership or control interest (whether convicted or not); and
 - (ii) other matter that reflects adversely on the person's fitness to have the particular overseas investment; and
- (d) would be eligible for visa or entry to New Zealand under the Immigration Act 2009.

22. As outlined above, as part of that process the OIO must consider whether a person is of "good character" and has relevant business experience / acumen in relation to the investment being made. There is no definition in the OIA of "good character". A recent legal opinion for the OIO, by P D McKenzie QC, on the "good character" test, sets out that the interpretation of that test should be considered in light of:

- (a) The purpose of the OIA, which acknowledges that it is a privilege for an overseas person to own or control sensitive New Zealand assets and, therefore, the OIO is to consider "whether the criterion, of the relevant overseas person being of good character, is such that the person should be granted the privilege of owning or controlling sensitive New Zealand assets. Is the relevant person a fit and proper person to be granted this privilege?";⁸
- (b) The words' dictionary definition, ie, the ordinary meaning of the words. McKenzie refers to "good moral character" as a pattern of behaviour that is 'consistent with the community's ethical standards and that shows an absence of deceit or morally reprehensible behaviour';
- (c) The Finance and Expenditure Select Committee of Parliament that reported back on the Overseas Investment Bill 2005 and noted that the inclusion of the "good character" requirement is "to ensure that all persons investing in New Zealand are people unlikely to act inappropriately and bring this country into disrepute"; and

⁷ Overseas Investment Act 2005, s 18.

⁸ P.D. McKenzie QC opinion to Land Information New Zealand. Dated 17 June 2016.

(d) *Shandil v Attorney General*,⁹ which provided that a person may be found to not be of "good character" even in the absence of prior convictions.

23. As discussed above, a wide range of factors can be taken into account by the OIO in considering whether a particular person is of "good character" in relation to the type of investment being made. Concerns about inappropriate use or control of a media investment could well be a relevant factor for the OIO to consider when considering an overseas investment in a media asset that exceeds the OIA's "significant business asset threshold".
24. Furthermore, each consent holder must comply with the representations and plans made or submitted in support of the application and notified by the OIO as having been taken into account when the consent was granted. If an applicant were to submit representations / plans to the OIO relating to editorial independence as part of an application for consent to invest in NZME2, adherence to those representations / plans could form part of the conditions of consent.

The NZ Press Council Deed Poll commitment

25. The New Zealand Press Council ("**NZPC**") is an independent body responsible for promoting media freedom and maintaining the press in accordance with the highest professional standards, including balance, accuracy, and fairness.
26. The Press Council has also recently had its role and responsibilities in the supervision of digital content enhanced. Pursuant to a Memorandum of Understanding negotiated by NPA/Press Council Inc and Online Media Standards Authority (OMSA) members of OMSA have put their online publications, over which they have editorial control, under the jurisdiction of the New Zealand Press Council.
27. The development was reported on 20 December 2016 as follows¹⁰:

Press Council chairman Sir John Hansen said the decision reflected progressive changes to the Press Council's jurisdiction brought about by rapid changes in the media industry.

The council was established as an industry self-regulatory body in 1972 to provide the public with an "independent forum" for resolving complaints against newspapers, magazines and, more lately, the websites of such publications and other digital media.

The council has a secondary role to protect and promote media freedom.

28. All six main broadcasting organisations which comprise the members of OMSA have individually agreed to the MOU. It will come into effect from 1 January 2017. As the OMSA media release relating to this development noted:¹¹

This agreement ensures that the public will continue to have a free, independent and efficient forum for resolving complaints against any online media content published by TVNZ, Radio New Zealand, SKY/Prime, MediaWorks, Maori Television or NZME Radio.

29. The inclusion of the broadcasters' digital operations is a further recognition of the reputation and standing of the Press Council, and reinforces the high degree of

⁹ HC Auckland, M2192/91, 30 April 1997.

¹⁰ Rob Stock "Broadcasters sign deal with Press Council" (20 December 2016) Stuff. Accessible at: <http://www.stuff.co.nz/business/industries/87780184/broadcasters-sign-deal-with-press-council>.

¹¹ "OMSA Members join the Press Council". Accessible at: <http://www.omsa.co.nz/omsa-news/omsa-members-join-the-press-council/>.

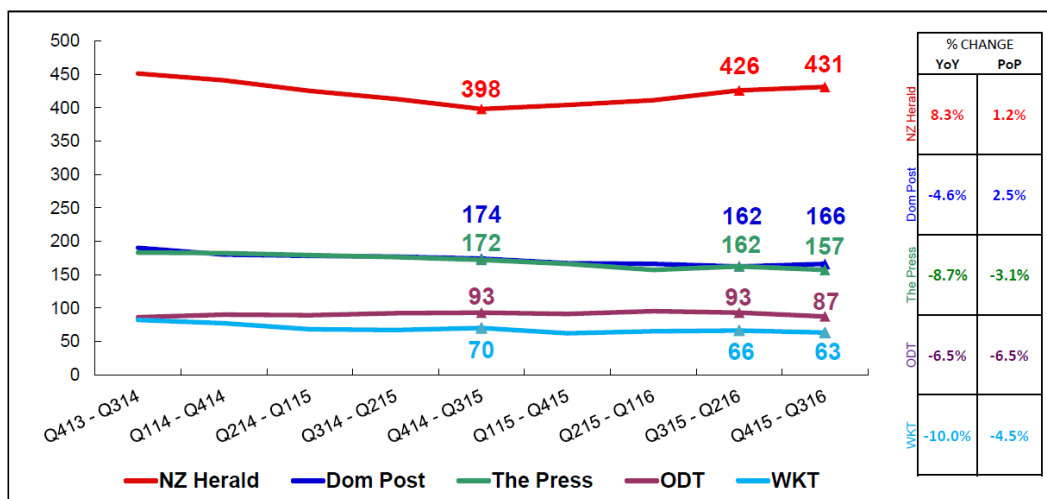
convergence in the New Zealand market in the distribution of news by historically different of media.

30. As outlined to the Commission in the parties' cross-submission to the submissions on the Draft Determination, to provide the Commission with additional comfort that the Press Council will continue to supervise (and discipline) NZME2 in its editorial functions as appropriate post-Merger, NZME is entering into a deed poll in favour of the NZPC. A draft of that deed poll has been provided to Sir John Hansen, the chairperson of the NZPC, for his consideration.
31. In summary, the deed poll will ensure than NZME2's news publishing business will, at all times:
 - (a) maintain a charter which requires NZME2's news publishing operations to adhere to key principles relating to the editorial content of its news publications;
 - (b) remain a member of the NZPC, on existing terms;
 - (c) comply with the statements of principle published on the NZPC's website;
 - (d) comply with all rulings of the NZPC that apply to their news publications; and
 - (e) pay any levies due to NZPC within the timeframes set out in the constitution.
32. A copy of the draft deed poll has been provided to the Commission by email of 21 December 2016. It is anticipated that it will be executed by NZME in the course of January 2017. The execution of this deed poll provides the Commission with additional comfort that the Merger will not result in a loss of editorial independence, balance, or adherence to journalistic ethics and standards.

PART 2 - ALLIED PRESS DOES NOT HAVE A "SILVER BULLET"

- 33. At the Conference, Grant McKenzie from Allied Press made comments that appeared to be intended to demonstrate that Allied Press operates a superior "print first" business model to NZME and Fairfax, and because of that it is able to better withstand the competitive pressures of online news sources, including Google and Facebook. In support of that suggestion, Allied Press referred to the fact that its circulation decline in the last 12 months (-2.82% over the last year) has been lower than the declines for NZME's and Fairfax's daily newspapers (-8.49% for *The New Zealand Herald*, -13.79% for the *Dominion Post*, -10.16% for *The Press*).
- 34. However, it is important to consider readership as well as circulation as a metric of performance, and also other market dynamics, in order to make an assessment of whether Allied Press' ownership and style of management of its mastheads is making any material difference to those publications. On closer analysis it is clear that it does not.
- 35. First, while the *Otago Daily Times*'s circulation has not fallen as much as NZME and Fairfax publications, its readership – the key measure for its ability to attract (albeit declining) advertising revenue – has fallen by more in percentage terms, and faster over the last year, than that of the *NZ Herald* and the *Dominion Post*. In particular, its readership in the last quarter has fallen by more than any of Fairfax and NZME main publications, as seen in the Nielsen data in Figure One below. Indeed, over the last year, from Q3 2015 to Q3 2016, the Nielsen readership data shows the *NZ Herald* gained over 30,000 readers, which equates to a third of ODT's total readership.

Figure One - Daily newspaper readership tracking



Source: Nielsen Readership Q4 15 - Q3 16. Currency 15+ (000s). .

- 36. Similarly, Roy Morgan data shows that in 2015, in comparison to 2014, the ODT suffered a 7.9% drop in readership (down 7.9% to 93,000), which was approximately half-way between the readership decline suffered by the *Dominion Post* (down 4.5% to 256,000) and *The New Zealand Herald* (down 10.9% to 549,000) between 2014 and 2015.¹²

¹² Roy Morgan "Readership in New Zealand, 12 Months to December 2015". Accessible at: <http://roymorgan.com.au/industries/media/readership/readership-new-zealand>.

37. There are reasons that explain the lower circulation decline of the *ODT* in comparison to NZME and Fairfax mastheads:
- (a) It is generally recognised that subscribers will acquire more copies of a publication in any given week than retail purchasers, who buy on a casual basis. Furthermore, subscribers of more than 2-3 years will tend to be more loyal or committed to the brand or service (and churn less frequently) than more recent subscribers. NZME expects that the *ODT* enjoys a higher proportion of committed subscription customers than, *The New Zealand Herald* in Auckland. There are many reasons for this.
 - (i) Otago province is a region in which residents tend to be more engaged in local issues and affairs, and interested in local news generally.
 - (ii) Auckland for example, is not like this. The city has a more mobile/transient population, younger, with an increasing mix of people who do not have English as a first language. More people choose to live in apartments for which home delivery of newspapers is not practical. For many, affordability of newspaper subscription (now \$600-700 per year) is an issue.
 - (iii) In comparison, Otago has a more settled and conservative population and, is likely to have a higher proportion of subscribers receiving home delivery of their newspaper. NZME also expects that the *ODT* generates reader loyalty as a result of it being locally owned by a prominent Dunedin business family.
 - (iv) A key constraint on newspaper subscription sales, is the pressure on people's time. In Auckland, thousands of commuters experience traffic issues, or alter their morning rituals as a result, which render newspaper home delivery less practical. These pressures are more acute in the larger metropolitan centres.
 - (b) As a consequence, NZME [].
 - (c) By contrast, NZME's observation has been that Allied Press has not had to be as []. Indeed, looking at circulation declines over a longer period, ie over the last 5 years, the *ODT*'s circulation decline has been 15%. NZME notes that for the same period, [].
 - (d) NZME agrees with Mr McKenzie's assertion that publishing news content on digital media, much of it prior to publication in print editions, impacts negatively on print circulation sales. However, the evidence is very clear that this is how the majority of Auckland people prefer to receive their news. 70% of Herald readers access nzherald.co.nz news via mobile phone, iPad, and desktop computers. If *NZ Herald* elected not to provide a digital service in this way, there are multiple other news providers willing and very capable of providing a substantial daily news service instead. The *ODT* by contrast has a degree of exclusivity over Dunedin / Otago specific news. Unlike Auckland, Wellington, and Christchurch (where TVNZ, MediaWorks, and RNZ each have a newsroom providing news content for their digital platforms), no other major news organisation has a newsroom in Dunedin with more than one journalist. This means that, unlike in Auckland, Wellington, and Christchurch, it may be currently viable for the *ODT* to withhold stories from its online platform until the next morning. If NZME and Fairfax were to do this, it would simply result in NZME and Fairfax losing audience to TVNZ, MediaWorks, and RNZ (not to mention newer media players such as The Spinoff, etc).

(e) It is also of note that even before NZME moved to a "digital first" model, NZME's audience was significantly weighted to access of news from NZME's online platforms than the ODT audience. This is demonstrated in Figures Two and Three below.

Figure Two – The New Zealand Herald Audience 2001 to 2016

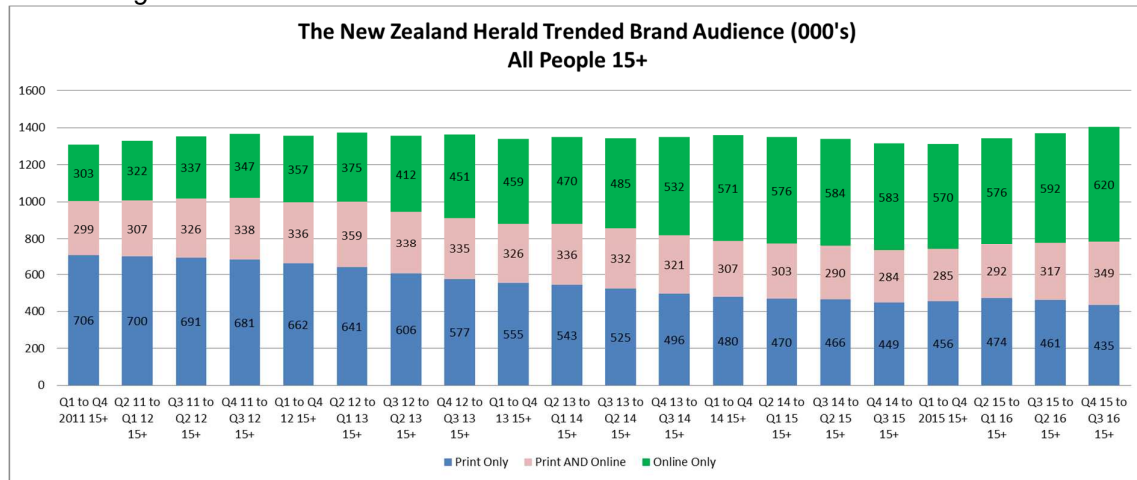
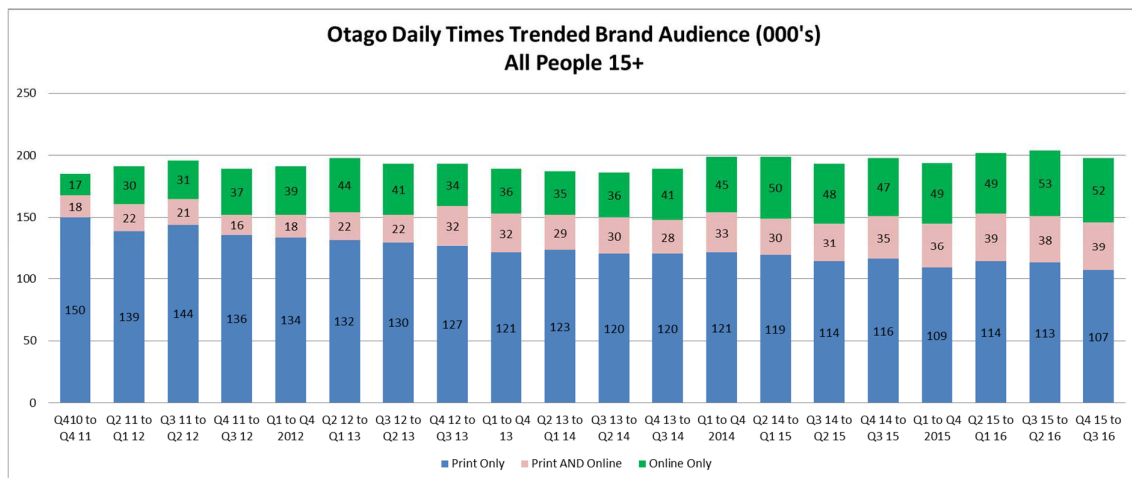


Figure Three - ODT Audience 2001 to 2016



There are significant demographic and behavioural differences in the Otago region that suggest that Allied Press circulation numbers have not yet been as impacted by consumers switching to digital sources as other publishers. The ODT readership profile demonstrated above is consistent with that of *The New Zealand Herald* five years ago.

38. Despite the implied suggestion at the Conference, Allied Press does not have a "magic formula" for better preserving daily print publications than NZME or Fairfax. This is best illustrated by the real world example of the fate of the publications that NZME predicted would become unprofitable and so sold to Allied Press-related interests in 2013. APN (now NZME) sold its South Island newspaper interests in 2013. As part of that programme it sold the *Oamaru Mail* to Mainland Media (a business also owned by the family running Allied Press). APN's view at the time was the *Oamaru Mail* would soon no longer be viable as a five day a week publication. In July 2014 Mainland Media sold the *Oamaru Mail* to Allied Press "to concentrate our efforts in greater Christchurch".¹³ In

¹³ "Oamaru Mail sold to Allied" (29 July 2014) Oamaru Mail. Accessible at: <http://www.oamarumail.co.nz/featured/oamaru-mail-sold-to-allied/>.

August 2015 Allied Press moved the *Oamaru Mail*, a five day a week paid daily publication, to become a free weekly community newspaper in light of the "commercial realities" of operating *Oamaru Mail* as a daily newspaper.¹⁴ As the Commission will readily appreciate, reducing a paper from five days a week to one day a week, as Allied Press did in that instance, significantly reduces the volume of journalistic coverage coming from the *Oamaru Mail*.

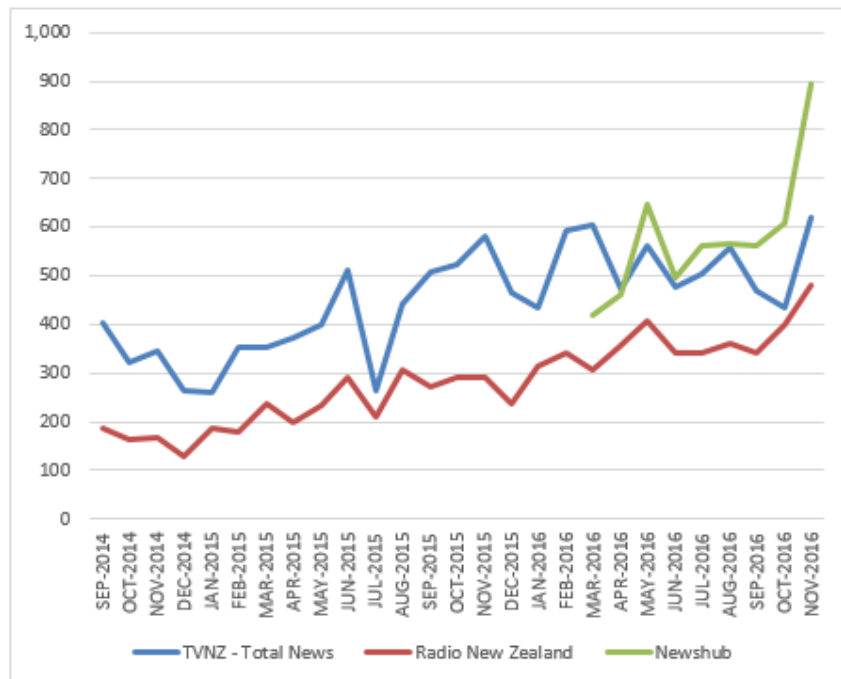
¹⁴ "Oamaru Mail now a free weekly" (24 August 2015) RNZ. Accessible at: <http://www.radionz.co.nz/news/regional/282221/oamaru-mail-now-a-free-weekly>.

PART 3 – TVNZ, NEWSHUB AND RNZ ARE SERIOUS COMPETITORS

Audience measurements

39. At the Conference NZME and Fairfax described how Newshub, RNZ, and 1NewsNow have achieved significant audience growth during the year, in particular in recent months. To demonstrate this, see Figure Four below, which graphs Nielsen data from September 2014 to November 2016.

Figure Four - Unique audience (000's) for 1 News Now, Newshub, RNZ



40. Figure Four demonstrates that:
- All of Newshub, RNZ and 1NewsNow have grown their unique audience over the period;
 - Newshub has gone from 400,000 unique visitors at launched in March 2016 to 900,000 in November 2016 - ie, it has more than doubled its audience since launch;
 - RNZ has gone from under 200,000 unique visitors in September 2014 to almost 500,000 unique visitors in November 2016 - ie, more than doubling its audience over the last two years.
41. In the circumstances of this demonstrated significant growth, it defies logic to suggest that these businesses will not continue to grow their audience in both the Factual and the Counterfactual. Of course, if NZME2 were to increase advertising prices or reduce the quality of its online news or advertising products, that would only serve to accelerate that growth.

Commission audience figures do not present accurate picture

42. NZME and Fairfax also noted at the Conference that the audience statistics cited by the Commission in the Draft Determination (sourced primarily from Nielsen) did not accurately capture overall audience numbers as they did not capture statistics for the audience consuming a media company's content on social media sites such as Facebook. For example:
- (a) A Facebook user watching a Newshub video on their Facebook newsfeed is counted as Facebook audience, not Newshub audience.
 - (b) A Facebook user that clicks a Newshub article link and is taken to the Newshub website to read that content is counted as Facebook audience and Newshub audience.
43. NZME has included further information for the Commission, enclosed in confidential slides called "ComCom slides – social media content", showing the nature of content published by NZME, Fairfax, TVNZ and MediaWorks during November 2016. This demonstrates that there is a significant audience viewing content created by all these media companies (and others), that is not properly reflected in the audience data collected by Nielsen.
44. In particular, TVNZ and MediaWorks have a strong audience and create and publish a large amount of video content, the fastest growing digital channel, on Facebook. As noted in the submission by NZME and Fairfax on the Commerce Commission's Draft Determination (on 28 November 2016), Facebook's founder Mark Zuckerberg:¹⁵
- ...has been transparent about his plans when it comes to the Internet. He wants to monopolize the digital ad news distribution system. He intends to have Facebook Instant Articles section become the average person's "primary news experience.
45. Each of TVNZ, MediaWorks, NZME and Fairfax also have channels on Youtube where they distribute video content, of which the audience statistics are not reflected in Nielsen data. These can be found at:
- (a) <https://www.youtube.com/user/onenewsnz>
 - (b) <https://www.youtube.com/user/3NewsNZ>
 - (c) <https://www.youtube.com/user/nzheraldtv>
 - (d) <https://www.youtube.com/user/NZStuffvideos>
46. The TVNZ and MediaWorks news channels on YouTube likely receive significantly more views than the equivalent NZME and Fairfax channels given their strength in the video format.
47. The statistics provided by NZME, which are not reflected in Nielsen audience data, show that:
- (a) [];
 - (b) [];

¹⁵ Ali Raza "Newspapers at Risk of Becoming Extinct if Facebook Continues its Growth" (16 June 2016) OppTrends. Accessible at: <http://www.opptrends.com/2016/06/newspapers-at-risk-of-becoming-extinct-if-facebook-continues-to-grow-as-it-is/>.

- (c) [];
- (d) []. This demonstrates how rapidly a media company can grow its online news audience using social media platforms such as Facebook.

48. It is essential that the Commission properly weigh news consumption through social media platforms, and the impact that has for amplification for other news media outlets and the ability to rapidly grow audience, in order for the Commission to assess the range of alternative news outlets being accessed by New Zealand online.

PART 4 – INTERDEPENDENCY OF READER AND ADVERTISER MARKETS

Two-sided market considerations

49. At the Conference (and in the Draft Determination), the Commission indicated that it was minded to assess plurality and coverage diversity in the "reader market" without considering Google and Facebook as they are "distributors" not content creators.¹⁶
50. The approach in considering each of the "reader markets" and "advertising markets" independently of one another was also reflected in structuring the Conference with sessions on competition issues in the reader and advertiser sides of the market separately, with no scheduled session to consider the interdependencies across readers and advertisers, ie the two-sided characteristics of the market, at all.
51. In response to questions from the Commission at the Conference, Mr Mellsop from NERA noted how important it is that the Commission consider the interdependences and assess the constraint of Google and Facebook within a two-sided market framework. In that context, Google and Facebook are competing with the parties for advertising revenue and, therefore, the merged entity has to compete with them for audience on the content side in order to continue to attract advertising which is its primary source of funding.
52. It is this interdependency across the two sides of the platform that is the key relevant feature of two-sided media markets;¹⁷ that is, demand by audiences is, in part, related to the amount of advertising shown, while demand for advertising is related to the size of the audience that will ultimately view the advertisement.
53. The importance of this interdependency cannot be over-emphasised, particularly in relation to the driving competitive dynamic in online media, that demand from advertisers is a function of the number of viewers / readers. This is why the set of competitors for the merged entity must include platforms that do not necessarily create news themselves.
54. To be more specific, in analysing competition and benefits / detriments, this interdependency is critical in order to properly understand:
 - (a) Market definition, as the relevant market should reflect the constraints from the advertiser side of the market on the audience side, and vice versa;¹⁸
 - (b) Competition analysis, as platforms such as Google and Facebook can constrain prices and quality on the reader side of the market through their competition to capture audience attention and sell that attention to advertisers; and
 - (c) Plurality, because competition for advertisers and audience attention from Google and Facebook places pressure on news media to provide a wider range of views in order to attract audiences directly to their own websites and apps.¹⁹

¹⁶ See for example, pages 55 and 56 of the transcript of the conference on 7 December 2016.

¹⁷ James Mellsop made this same point at the conference – see day 2 transcript, page 56, lines 10-11.

¹⁸ This is consistent with the two-sided markets literature, which points out that market definition must account for both sides of the market; see, e.g., J. Gregory Sidak and Robert D. Willig (2016), "Two-Sided Market Definition and Competitive Effects for Credit Cards After *United States v. American Express*", *The Criterion Journal on Innovation*, 1, 1301, at 1306; and David S. Evans (2003), "The Antitrust Economics of Multi-Sided Platform Markets", *Yale Journal on Regulation*, 20(2), 324-381, at 357.

¹⁹ A similar point was raised at the conference by Stuff editor Patrick Crewdson, stating that "we also do it [publish a diversity of views] because we are seeking the biggest audience and we know that publishing a diversity of views attracts more people, more readers, than publishing just one" (transcript day 2, page 7, lines 33-34 and page 8, line 1).

55. The significance of this interdependency in antitrust analysis has recently played out in the US courts in a case concerning the market power of American Express in two-sided credit card markets. As Sidak and Willig (2016) describe:²⁰
- (a) The US District Court's analysis in that case recognised the need to account for the two-sided nature of credit card markets, but ultimately defined the relevant market to be only the merchant side of the market;
 - (b) On appeal, the US Court of Appeals for the Second Circuit found that the District Court's market definition was incorrect, as it ignored the implications for the cardholder side of the market and "did not properly account for the interdependence between the two sides of the market";²¹ and
 - (c) The Second Circuit also found that the District Court's market definition distorted its assessment of competitive effects. As Sidak and Willig state,²² the Second Circuit reasoned that in a two-sided market "one must account for the competitive effect ...on the merchant side of the market as well as on the cardholder side of the market".
56. Similarly, the Australian Competition and Consumer Commission ("**ACCC**") has recognised this key feature of two-sided markets in two of its recent decisions regarding newspaper mergers. For example:
- (a) In the ACCC's recent clearance of the merger of the two main newspaper publishers in Western Australia:²³

The ACCC also took into account the two-sided nature of media markets, noting that each of SWM and News supply content to readers and advertising opportunities to advertisers.

...

The ACCC also considered that, in the face of growing competition from **alternative advertising opportunities**, the need for 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. [Emphasis added.]
 - (b) In the ACCC's clearance of News Corporation's proposed acquisition of APN's Australian Regional Media Division:²⁴

The ACCC took into account the two-sided nature of media markets, noting that each of News and ARM supply content to readers and advertising opportunities to advertisers.

The ACCC considered that, in the face of growing competition from **alternative local advertising opportunities**, and the need for News to maintain readership levels in order to ensure advertising revenues, News would be unlikely to decrease the quality of the local content as a result of the proposed acquisition. [Emphasis added.]

²⁰ J. Gregory Sidak and Robert D. Willig (2016), "Two-Sided Market Definition and Competitive Effects for Credit Cards After United States v American Express", *The Criterion Journal on Innovation*, 1, 1301.

²¹ *Ibid*, at 1302-1303.

²² At 1308.

²³ Australian Competition and Consumer Commission "ACCC will not oppose Seven West Media's proposed acquisition of The Sunday Times and perthnow.com.au" (media release, 15 September 2016). Accessible at: <https://www.accc.gov.au/media-release/accc-will-not-oppose-seven-west-media%E2%80%99s-proposed-acquisition-of-the-sunday-times-and-perthnowcomau>.

²⁴ Australian Competition and Consumer Commission "ACCC will not oppose News Corporation's proposed acquisition of APN's Australian Regional Media Division – ARM" (media release, 8 December 2016). Accessible at: <https://www.accc.gov.au/media-release/accc-will-not-oppose-news-corporation%E2%80%99s-proposed-acquisition-of-apn%E2%80%99s-australian-regional-media-division-%E2%80%93-arm>.

57. Indeed, the Chair of the ACCC specifically emphasised the impact that "alternative digital" advertising options are having on news publishers in clearing that transaction:²⁵

Declining readership and reduced advertising revenues for hard-copy publications were important factors in the ACCC's assessment, as it was with the investigation of Seven West Media's acquisition of The Sunday Times. Advertisers and readers are increasingly turning to other sources of news and advertising opportunities, particularly digital, which is having a significant impact on the print industry.

58. In circumstances where 81 cents in every dollar of new advertising expenditure in New Zealand is going to Google or Facebook (with similar dynamics in Australia), it is essential that the Commission's analysis, like the ACCC's, reflect the competitive constraint from those "alternative advertising opportunities" on publishers' content quality (including content diversity, etc).
59. The following comment from the ACCC's Statement of Issues in the *News Corp / APN* merger is also apposite:²⁶

Although this Statement of Issues identifies two separate issues in relation to the supply of local news and information to consumers, and the supply of local advertising opportunities to advertisers, **the ACCC recognises the analysis of competition on one side of the newspaper 'platform' cannot be isolated from the analysis of competition on the other side.** [Emphasis added.]

60. In this context it is absolutely critical that the Commission does not just look at each side of the two-sided market separately and in isolation from the interdependencies between them. Plainly it may be convenient for exposition purposes, separately to articulate some of the demand characteristics of the reader and advertiser sides, but it is essential that the analysis itself captures the interdependency.
61. That is particularly true when two competitors, Google and Facebook, are winning the lion's share of advertising revenue and market share on the advertising side. To discount those competitors as having no impact on the other side of the platform will necessarily lead to materially inaccurate conclusions that are inconsistent with the modern economic thinking and internationally accepted approaches to antitrust analysis in media mergers adopted by equivalent regulators to the Commission around the world.

Community newspaper competition

62. In reflecting on the ACCC's approach in *News Corp / APN*, it is also important to note that the ACCC's decision (which has been released since the Commission's Draft Determination), differed markedly from the Commission's Draft in its analysis and findings in respect of competition in local community newspapers.
63. The ACCC's findings (following contact with over 600 small businesses and advertising agencies which advertise in News and ARM publications in Queensland and Northern New South Wales) reflect NZME and Fairfax's experience of community newspaper market dynamics in New Zealand. In particular, the ACCC's findings that:
- (a) "overall, a sufficient range of local news choices and advertising options would remain available in these areas, with Fairfax and independent local

²⁵ Australian Competition and Consumer Commission "ACCC will not oppose News Corporation's proposed acquisition of APN's Australian Regional Media Division – ARM" (media release, 8 December 2016). Accessible at: <https://www.accc.gov.au/media-release/accc-will-not-oppose-news-corporation%E2%80%99s-proposed-acquisition-of-apn%E2%80%99s-australian-regional-media-division-%E2%80%93-arm>.

²⁶ ACCC (2016), "Statement of Issues: News Corporation – proposed acquisition of APN News & Media Limited's Australian Regional Media division", 6 October, at [40].

newspapers in some local areas, competing online options, as well as local radio news";

- (b) "most acknowledged that print advertising was of declining importance and identified other advertising options if News attempted to increase rates";
 - (c) "Advertisers and readers are increasingly turning to other sources of news and advertising opportunities, particularly digital, which is having a significant impact on the print industry"; and
 - (d) "the ACCC concluded that most businesses or individuals seeking local advertising opportunities would be willing to substitute to alternate media or advertising methods for some or all of their advertising if News attempted to increase advertising rates after the acquisition. The ACCC considered that the various local advertising alternatives, including online, radio and television, would collectively impose sufficient constraint on News after the acquisition."
64. Indeed, as outlined for the Commission at the Conference, what drives advertising prices and quality in community newspapers is not competition between any particular NZME and Fairfax community publications. Rather, the key constraint is perception of value, in the context of what local advertising customers are willing and able to spend on community newspaper advertising given these clients all have the option of using (and typically do use) other advertising media - including flyers, website, social media, directory sites not to mention point of purchase, local sponsorships, loyalty programmes, etc. That is the key driver of community newspaper advertising prices for local advertisers - not whether or not there is another community newspaper in the local area.
65. For example, there has been significant switching to digital advertising by local advertisers:
- (a) Car dealers are all on Trade Me;
 - (b) Employment advertisers are all typically on Seek, Trade Me, Facebook, and other job aggregation websites;
 - (c) Real estate agents are all typically on Trade Me, realestate.co.nz etc;
 - (d) Trades and services are all on directories (Localist, Yellow, TradeBox.co.nz) and social media;
 - (e) Local advertising expenditure is increasingly going to Facebook and Google search, and hyper local websites and social media groups are emerging (community notice boards etc). Local brand awareness in communities is achieved in all sorts of ways (increasingly non-traditional ie sponsorships, events / activity that generate social media).
66. Even putting the vast array of digital alternatives available to one side, the Commission's dismissal of advertising flyers as a competitive constraint runs contrary to the significant in-market evidence of local advertisers using flyers as an alternative advertising option. The Commission's view in the Draft Determination that flyers are not cost competitive with advertising in community newspapers does not reflect the in-market realities of flyer pricing and the way in which flyers can be specifically targeted to a particular area, rather than a community newspapers distribution area, to achieve equivalent advertising outcomes at comparable prices.
- (a) For example, a full page advertisement in a NZME community newspaper with 30,000 circulation costs approximately [] and may contain significant wasted

audience given it cannot be targeted to particular households / streets around a local business.

- (b) By contrast, a single page A4 colour flyer can be distributed in a much more targeted way, and therefore require considerably fewer in quantity. To print 9,000 flyers for example would cost [] and could be handed out to known interest groups for minimal cost, ie in-store, at the ferry or bus terminal, at a sports event or expo, etc. As noted, the local advertiser can also achieve delivery to households and specify to the likes of NZ Post or PMP, the specific streets (mesh blocks) to be targeted, the cost of which for 9,000 or so urban addresses would be [].

PART 5 – DETAILED DESCRIPTION OF FACTUAL VS. COUNTERFACTUAL

67. NZME and Fairfax understand from the Conference that the Commission is particularly interested in specific details on the difference between the Factual and Counterfactual.

The Counterfactual

68. As outlined in the submission sent to the Commission on 25 November 2016, Fairfax and NZME see the likely counterfactuals for each of their businesses as follows:

- (a) For Fairfax, the likely counterfactual in the absence of the Merger [].

[]

[]

(i) []

(ii) []

[]

- (b) For NZME, the likely counterfactual in the absence of the Merger [].

[]

(i) []

(ii) []

(iii) []

(iv) []

(v) []

[]

69. []

(a) []

(b) []

(c) []

70. []

71. []

72. []

73. []

[]

74. []

- (a) []
- (b) []
- (c) []
- (d) []
- (e) [] and
- (f) []

75. This material makes clear that the two Counterfactuals adopted by the Commission in its Draft Determination are not only not likely, they also do not represent the two ends of the spectrum of potential Counterfactuals as suggested by the Commission at the conference.

The Factual

76. [], the PwC Factual Report demonstrates that the Merger will provide a significant sustainable period of NZME2 generating positive cash-flow, which will allow it to maintain the number and quality of its journalistic coverage while at the same time growing its digital revenues to a point that they are sufficient to support the New Zealand publishing business' large fixed cost base. This provides the very real prospect of transitioning to a sustainable business model where the digital business adequately funds the quantity and quality of journalism produced today, so the businesses are not reliant on print to support their fixed costs (although some print products are likely to remain, the print products will not be essential to cover fixed costs as they are today).

77. The business model and market characteristics that are necessary to achieve that outcome for NZME2 are already in place:

- (a) Digital audience and consumption of news is growing;
- (b) Advertising expenditure, and digital advertising expenditure in particular, is not declining, it is growing – it is just that the lion's share is going to Google and Facebook, not New Zealand content producers.
- (c) A key reason the parties are not getting their fair share (or a greater share than Google and Facebook) of that spend it because of the [].
- (d) [].
- (e) The Merger will achieve economies of scale from single investment in platforms and new advertising technology – native advertising, mobile, data etc – rather than duplicated investment in the same platforms.
- (f) A broader local coverage that will provide NZME2 with comparable reach to Facebook across local markets, instead of that local advertising expenditure increasingly being lost to Facebook.

78. From Fairfax's perspective, the Merger provides a real opportunity [] create a sustainable business that:

- (a) supports local journalism,
- (b) is publically listed in New Zealand, and

- (c) pays New Zealand tax.
79. NZME and Fairfax see this as an excellent opportunity for New Zealand, New Zealand journalism, other New Zealand media companies, New Zealand advertisers – including significantly the New Zealand government and other public bodies that collectively represent a large proportion of digital advertising expenditure in New Zealand - and New Zealand investors on the NZX – again including those like ACC and NZSF that are interested in New Zealand-specific investment opportunities. NZME and Fairfax's view is that these are the benefits from the Merger that the Commission should be focusing on, not backward-looking, in their view, false, [] concerns about "external plurality" of news organisations.
80. []
- (a) The present net value of the quantified benefits, being []; and
 - (b) The present value of [].

PART 6 – SPECIFIC FINANCIAL QUESTIONS**Fairfax questions**

81. On 15 December 2016, the Commission asked the certain questions of Fairfax. Those questions and responses are outlined below:

[]

NZME questions

82. On 15 December 2016, the Commission asked the certain questions of NZME. Those questions and responses are outlined below:

[]

APPENDIX ONE
COVERAGE OF DIGGER HITS BRIDGE

Newshub

Crash blocks Auckland's Southern Motorway UPDATED

By [Newshub staff](#) and [Lucy Warhurst](#)

Monday 9 May 2016 1:45 p.m.



The Southern Motorway at Greenlane Rd (NZTA)

Share this story

Two southbound lanes on the Southern Motorway at Penrose were blocked after a vehicle hit the overbridge.

But the New Zealand Transport Agency (NZTA) says three lanes South-bound on the Southern Motorway are now open, however congestion remains heavy on and around the motorway

NZTA Akid & Nthind
@NZTAAKI

Follow

Update: 3 lanes Sth-bnd on Sthn Mwy NOW OPEN, however congestion heavy on & around Mwy. Please delay departure south if possible ^TP

4:47 PM - 9 May 2016

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↻ 4
❤ 3

A digger on the back of a trailer hit the Penrose overbridge around 1:15pm. Engineers are currently on the scene working to clear it. Motorists can monitor NZTA on Twitter for updates.

Traffic in the northbound lane has slowed due to rubberneckers, NZTA acknowledged in a tweet.



"Although the motorway is currently open, the accident is causing congestion and motorists are advised to avoid the area to prevent delays to their journey," police said in a statement.



NZTA recommends motorists use the Southwestern Motorway instead.

The accident follows a breakdown which blocked traffic heading towards the city on the Southern Motorway this morning, near Lambie Dr.

A rolled truck caused delays on the Northwestern Motorway this morning too.



The Penrose Road bridge is frequently hit by vehicles too tall to fit underneath it. In October 2015 it was [struck by a motorhome](#), the driver fleeing before authorities arrived.

In 2012 a truck carrying sheets of glass [smashed into it](#), with onlookers saying the panes exploded into a white cloud.

The [most recent incident](#) was in March when a truck and trailer unit hit it, blocking traffic all the way back into the city at Fanshawe St.

Newshub.

Radio NZ**Aucklanders told to avoid Southern Motorway**

6:02 pm on 9 May 2016

A major part of Auckland's motorway network slowed to a crawl after a truck hit the Penrose overbridge.

A digger arm hit the overbridge early this afternoon and while all lanes are now open, the New Zealand Transport Agency said motorists should expect delays.

The St Marks, Ellerslie and Greenlane off-ramps southbound have been closed to reduce the volume of traffic coming onto the motorway.

The tail of traffic is back to Fanshawe Street in the city.

There are no reported injuries and no other vehicles involved.

The last similar incident caused massive traffic disruption.

A truck and trailer hit the Penrose overbridge on March 18, flipping the trailer and blocking all the southbound lanes.

State Highway One south-bound ground to a halt, while rubberneckers slowing to catch a glimpse of the crash scene caused traffic jams on the north-bound route.

The agency says the bridge is the lowest on the Auckland network, and there are several warnings to motorists about the height limit of 4.57 metres, but it plans to upgrade them.

NZ Herald

Live updates: Auckland's Southern Motorway open in time for evening rush

1:35 PM Monday May 9, 2016



- A truck carrying a digger smashed into the Penrose overbridge at around 1:15pm.
- Police confirm the Southern Motorway is now open
- Motorists advised to take care as there is still a backlog of traffic in the area.

7:00pm: Don't forget that part of the Southern Motorway, southbound will be closed overnight, for emergency repairs due to the damage caused by today's accident.

The motorway southbound will be closed between Ellerslie and the south eastern arterial southbound from tonight, between 11pm and 6am tomorrow.

5:02pm: Police confirm the Southern Motorway is now open following a crash which earlier closed two southbound lanes.

The road is now open, however motorists are advised to take care as there is still a backlog of traffic in the area.

5:01pm: Traffic is easing slightly, but remains heavy on the southbound Southern Motorway.

Traffic between Fanshawe St offramp and Hobson St onramp is travelling at 7km/h.

Between the Port onramp and Khyber pass, traffic is travelling at 30km/h.

Between the Market Rd offramp and Greenlane Rd offramp, it is travelling at 15km/h, while between the Ellerslie Panmure Highway onramp and the South Eastern Highway offramp, it is travelling at 25km/h.

4:50pm: All lanes on the Southern Motorway Southbound are now open, but congestion remains heavy on and around the motorway and drivers should continue to avoid the area.



4:46pm: Auckland Transport says the crash has caused delays to Great South Rd and Howick & Eastern bus services of up to 30 minutes. People heading south are advised to consider delaying their trip or taking the train.

4:27pm: Police advise motorists who use the Southern Motorway to plan alternate routes home if possible.

Work is continuing to clear the road, with engineers at the scene.

Two southbound lanes remain closed.

The St Marks, Ellerslie and Greenlane offramps southbound are closed in an effort to minimise the amount of traffic heading into the area.



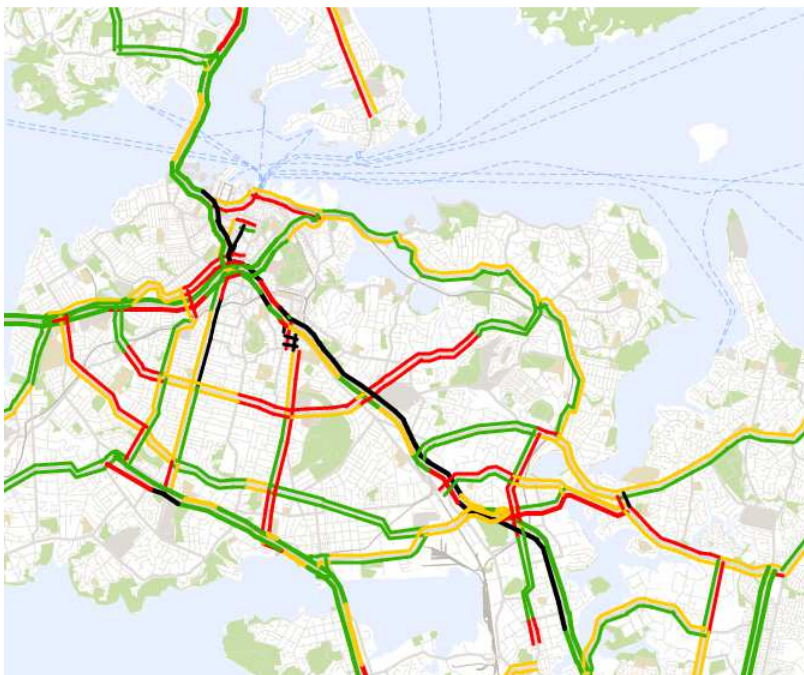
A truck carrying a tall load collided with the Penrose road overpass on the southern motorway, southbound. Photo / Nick Reed

4:25pm: The New Zealand Transport Agency says the Southern Motorway southbound between Ellerslie and the South Eastern Arterial will be closed tonight for emergency structural repairs, due to a digger hitting Penrose bridge.

To minimise disruption to motorists the closures will be timed between 11pm and 5am, when traffic is lighter.

A signposted detour will be in place and drivers are asked to follow the signposted routes while work is being carried out to ensure that this section of the motorway is safe.

4:20pm: The Auckland Transport website shows traffic is backed up from the Fanshawe Street in the city to the Princess St offramp in Takanini. The black line indicates places where congestion is at its worst.



Traffic between Fanshawe and Hobson Sts is travelling at 7km/h. Between the Tecoma St offramp and onramp, traffic is travelling at 2km/h, according to AT.

4.12pm: Auckland Transport has advised that bus 550x travelling out of the city will use Great South Rd, rather than the motorway.

4.10pm: NZTA says traffic is still congested from the city to Penrose. Alternative route SH20 (South Western Motorway) is flowing well at present.



NZTA Akld & Nthlnd
@NZTAAki

 Follow

Heading south? Sthn Mwy heavily congested CBD to Penrose, consider Sth Wstn Mwy (SH20) currently flowing well ^TP

4:05 PM - 9 May 2016

  5  4

4pm: The Penrose bridge has been deemed safe for all vehicles. An NZTA spokeswoman said there are signs ahead of the bridge, warning motorists with overheight vehicles to pull over.

3.50pm: The current travel time between Hobson St in the city and Manukau is an hour and 12 minutes. The normal time is 15 minutes, according to Auckland Transport.

3.35pm: A man who was driving behind the truck carrying a digger that smashed into an overbridge on the Southern Motorway has described the moment he slammed on his brakes in anticipation of the accident.

The motorist, who wanted to remain anonymous, said he was in the right lane, heading south, behind the truck which was in the centre lane.

About 100 metres before the bridge, a flashing light went off, warning that the vehicle was too high.

In anticipation, the man slammed on his brakes. He said traffic was travelling at 100km/h at the time.

The arm of the digger smashed into the bridge, and the machine fell into the right lane in front of the man.

He estimated it had overlapped by just 20 centimetres.

The man jumped out of his vehicle and ran to the truck, pulling the driver out uninjured, but in shock.


3.20pm: Two Southbound lanes in Penrose are still blocked on the Southern Motorway, Southbound. On-ramps at Ellerslie-Panmure, Greenlane and St Marks Rd are now closed.

3.18pm: Southbound traffic between the city and Ellerslie is travelling at approximately 15 kilometres an hour, according to the NZTA.


3:15pm: Traffic heading south is at a standstill on the Southern Motorway from the city, after a truck carrying a digger in a trailer hit the Penrose overbridge.

The New Zealand Transport Agency says motorists should avoid the area, or expect long delays.

The agency recommends motorists use Great South Rd or the South Western Motorway as an alternative route.






NZTA Akid & NthInd
@NZTAAKI



Follow

Update: Sthn Mwy congested Sth-bnd city to Penrose & Nth-bnd from Highbrook. AVOID. Use other routes. More:
ow.ly/jPV13001Kri ^TP

2:49 PM - 9 May 2016


 3
 3

Northbound traffic is also heavy on the motorway, from Highbrook.

The accident, at 1.15pm, occurred when the arm of the digger has hit the over bridge, part of the Ellerslie Panmure southbound onramp.

The onramp is being assessed for damaged and is currently closed.



Photo / Nick Reed

There are no reported injuries and no other vehicles were involved, police said.

Emergency Services are on the scene.



Heavy traffic seen from Ellerslie. Photo / Jetso Shin

- [NZ Herald](#)

Stuff

Auckland's southern motorway closed from 11pm following a day of closures



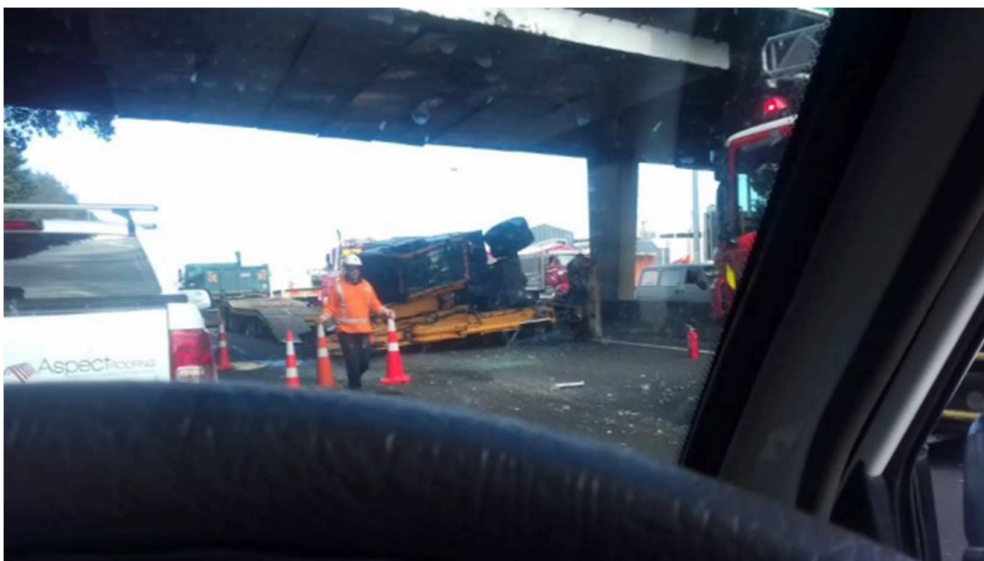
SAM SWORD/Stuff.co.nz

A digger hit the Penrose overbridge around 1.15pm on Monday.

To cap off a chaotic afternoon of traffic, Auckland's southern motorway will be closed from 11pm on Monday.

The closure will affect State Highway One from Ellerslie to the South Eastern Highway while NZTA carries out emergency repairs to the Penrose Rd overbridge.

The repairs follow a nightmarish series of events on Auckland's motorways, kicking off when a digger on a trailer hit the overbridge on the southern motorway about 1.15pm.



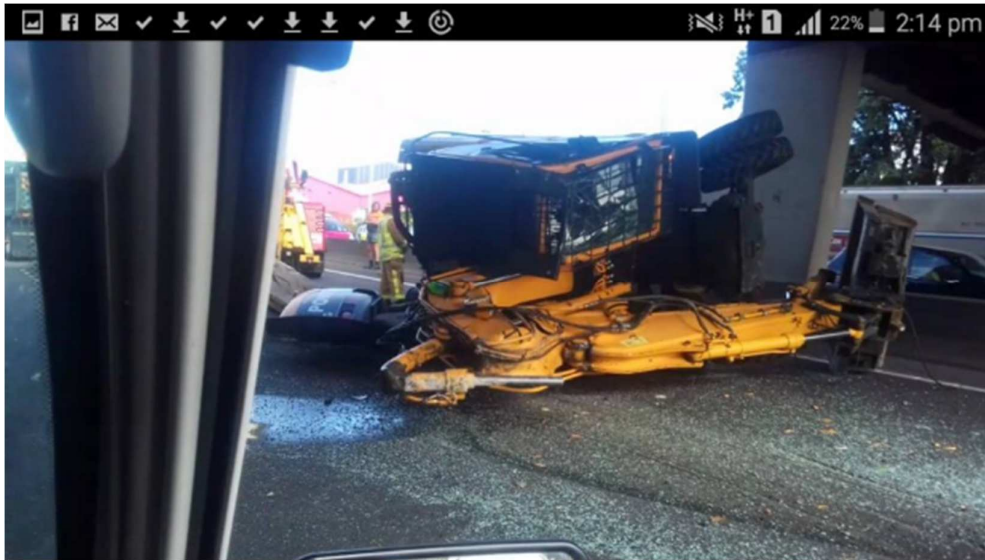
CHRIS GRAHAM

The motorway was blocked after the digger came to grief.

A car fire on the northern motorway prolonged the agony.

The digger was blocking the middle and right-hand lanes of the motorway and traffic was very heavy back to Gillies Avenue - a distance of nearly 8km.

The crash scene had been cleared and traffic had begun to flow, but motorists were advised to expect long delays as the backlog cleared.



CHRIS GRAHAM

A digger was smashed against the Penrose overbridge and knocked off its trailer.

Shortly before 6pm a courier truck caught fire on the northern motorway north-bound after the Auckland Harbour Bridge.

The truck was partially blocking the left lane, and NZTA were urging drivers in the area to pass with care.

All lanes have since been cleared.

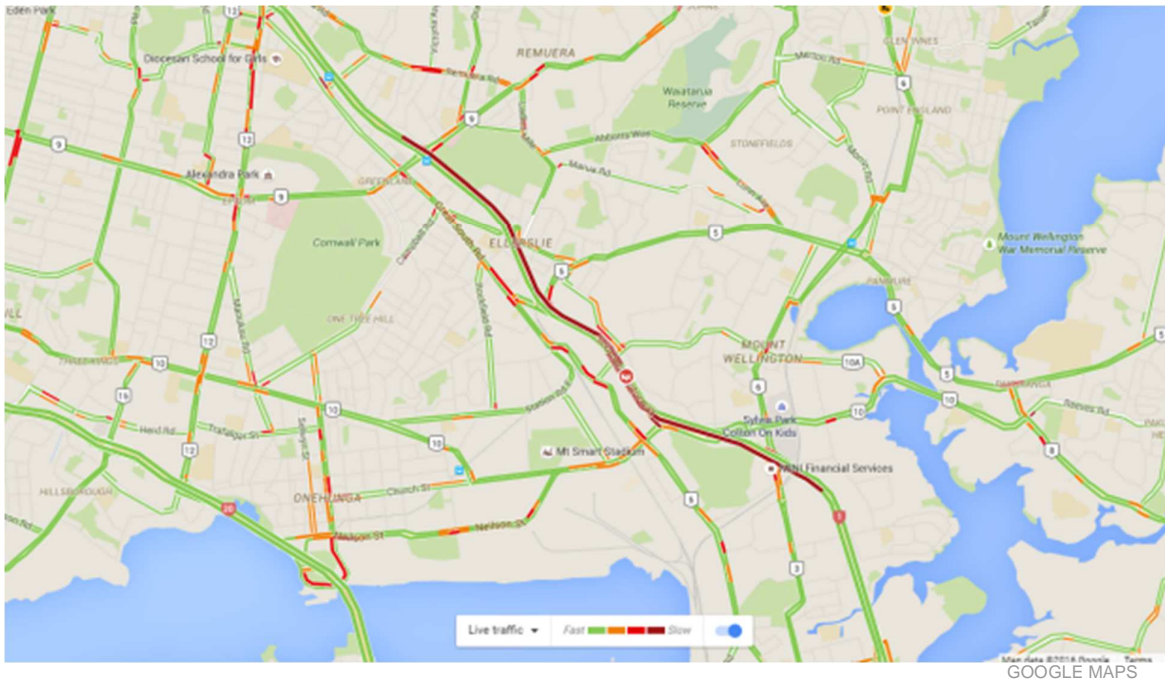


An over height warning system was working when a digger "well above" the cut-off 4.57 metre height hit the Penrose motorway overpass, NZTA said.



NZTA said emergency services were at the scene of the digger crash and "engineers would be assessing the bridge to check for structural damage".

"Heavy vehicles will be restricted from using the bridge until it has been assessed, and police will be detouring them either side of the bridge."



Google Maps shows traffic is backed up back to Market Rd



NZTA Akid & NthInd
@NZTAAKI


Follow

Update: Sthn Mwy due to reopen Sth-bnd soon. Please delay heading south due to existing congestion adding to evening peak. #Delays ^TP

4:30 PM - 9 May 2016



1


It is the second incident in Auckland on Monday involving a truck carrying a digger.

Earlier, a truck [rolled with a digger on the back](#), causing major delays on the northwestern motorway.



NZTA Akid & NthInd
@NZTAAKI


Follow

A crash has blocked ALL LANES southbound on Sthn Mwy at Penrose overbridge. Please avoid area or expect long #delays ^TP

1:24 PM - 9 May 2016



13

5

At 2pm a fourth crash caused delays on the Mt Wellington Highway after a car crashed into a house and the driver died of a suspected medical condition.

TVNZ

Auckland motorway to close overnight for repairs following digger crash

Mon, May 9

Part of Auckland's Southern motorway will be closed from 11pm tonight to make repairs after a crash at the Penrose overbridge this afternoon.

Southbound lanes will be closed from Ellerslie to the South Eastern exit, the NZ Transport Agency says.

A digger crashed off the back of a truck after hitting the overpass about 1.15pm, blocking the road and damaging the bridge.



Auckland's Southern Motorway slowed to a crawl after a digger being carried by a truck smashed into the Penrose overbridge.

Source: 1 NEWS


No one was injured in the crash but the traffic jam stretched back to the central city, nine kilometres away.

SH 1 Full Closure Ellerslie To South Eastern Arterial Southbound >


⚠ Scheduled Road Work : Road Closed

Bridge Repairs

Emergency Repairs Are Required For Damage To The Penrose Rd Overbridge From The Earlier Bridge Strike Today.






NZTA Akid & NthInd
@NZTAAKI

 Follow

Sthn Mwy Sth-bnd emergency closure tonight from 11pm following earlier incident: ow.ly/LZCh3001RPq ^TP

6:50 PM - 9 May 2016


 1
  1

Drivers are encouraged to use the South Western motorway (SH20) which is currently flowing well.



A truck hit an overbridge on the Southern Motorway, blocking all lanes heading south.
Source: 1 NEWS

APPENDIX TWO

FAIRFAX EXAMPLES OF INTERNAL PLURALITY

The cannabis debate

1. Stuff has published a broad range of views in relation to the ongoing debate on the legal status of marijuana (as well as, specifically, medical marijuana). For example, a small sample of such articles includes:
 - (a) An opinion piece by Mike Yardley, asserting that legalising cannabis is not in the public interest. (Mike Yardley, *Legalising cannabis 'not in the public interest'*, 22 August 2016).²⁷
 - (b) A guest feature by US detective Keith Graves detailing the history of marijuana decriminalisation / legalisation in the United States, and suggesting that that history indicates that marijuana should not be decriminalised / legalised. (Keith Graves, *Top US detective Keith Graves on what NZ can learn from US history of cannabis decriminalisation*, 22 August 2016).²⁸
 - (c) An editorial by the Nelson Mail, which argued that lawmakers should shed their prejudices around cannabis, and consider the science which suggests the numerous benefits of medical marijuana as a treatment or palliative in numerous conditions. (Nelson Mail Editorial, *Follow the science for medicinal cannabis*, 14 October 2016).²⁹
 - (d) A Press editorial arguing that it is important to recognise that there is a groundswell of support for decriminalisation or legalisation of marijuana, and that it is therefore necessary to push ahead with the debate, while recognising the risks, and the corresponding need to get it right. (Press editorial, *Possessing small amounts of cannabis shouldn't really be such a big deal*, 16 August 2016).³⁰
 - (e) An article by Richard Meadows detailing the economic consequences of legalising marijuana. (Richard Meadows, *The economics of legalising New Zealand's marijuana market*, 17 April 2016).³¹
 - (f) An opinion piece by Rebecca Reider (who had been arrested for importing cannabis), arguing that New Zealand is ignoring international practice with its barriers to medical cannabis use, and advocating for the legalisation of medical cannabis. (Rebecca Reider, *No reason to delay medical cannabis*, 1 April 2016).³²
 - (g) A Stuff Nation reader report arguing that the Government should place a moratorium on arresting cannabis users, and change the laws relating to cannabis use to reflect the wishes of New Zealanders. (Pearl Schomburg, *It's time we ended unnecessary suffering*, 15 September 2016).³³

²⁷ <http://www.stuff.co.nz/the-press/opinion/83410482/Mike-Yardley-Legalising-cannabis-not-in-the-public-interest>

²⁸ <http://www.stuff.co.nz/national/crime/83352662/top-us-detective-keith-graves-on-what-nz-can-learn-from-us-history-of-cannabis-decriminalisation>

²⁹ <http://www.stuff.co.nz/nelson-mail/opinion/85306438/Follow-the-science-for-medicinal-cannabis>

³⁰ <http://www.stuff.co.nz/the-press/opinion/83162132/editorial-possessing-small-amounts-of-cannabis-shouldnt-really-be-such-a-big-deal>

³¹ <http://www.stuff.co.nz/business/better-business/78955429/The-economics-of-legalising-New-Zealand's-marijuana-market>

³² <http://www.stuff.co.nz/nelson-mail/opinion/78473764/No-reason-to-delay-medical-cannabis>

³³ <http://www.stuff.co.nz/stuff-nation/assignments/should-medical-cannabis-be-legal/15914696/Its-time-we-ended-unnecessary-suffering>

- (h) A Stuff Nation reader report arguing that the risks of cannabis have been overstated, and that science is on the side of those wishing to change the current legislation. (Kyle Sutherland, *The time to legalise cannabis is now*, 12 September 2016).³⁴
- (i) A Stuff Nation article by a sufferer of severe anxiety, social phobia, and PTSD, arguing that marijuana should be legalised as it is effective at relieving suffering. (Anonymous, *Cannabis gives me days 'when I can function and don't hate myself'*, 22 March 2016).³⁵

Losi Filipo

2. Stuff published a range of articles on Losi Filipo, the young rugby player that was discharged without conviction following an attack on four people in the street:
 - (a) An article from Kevin Norquay acknowledging that Mr. Filipo's discharge without conviction is more nuanced than is being reflected in the 'court of public opinion'. (Kevin Norquay, *Four lives on hold - Losi Filipo is one lucky rugby player*, 27 September 2016).³⁶
 - (b) An article from Martin Van Beynen arguing that New Zealand rugby deserves credit for standing by Mr. Filipo. (Martin Van Beynen, *New Zealand rugby deserves credit for standing by Filipo*, 30 September 2016).
 - (c) An article from Kevin Norquay criticising the opposition by parents to Mr. Filipo's involvement in a supervised sports day at Petone Rugby Club as part of his community rehabilitation, and arguing that a more responsible position is to consider how Mr. Filipo can be successfully rehabilitated, rather than being thrown "on the scrap heap". (Kevin Norquay, *Let violent Wellington rugby teen Losi Filipo do his work as a force for good*, 1 December 2016).³⁷
 - (d) A Stuff Nation reader article arguing that New Zealand sportspeople should not be seemingly immune to legal punishments when they do something wrong, and should instead be held to a higher standard and made an example of. (Matthew Robinson, *Rugby jersey is a 'get out of jail free' card*, 27 September 2016).³⁸
 - (e) A Stuff Nation reader report arguing that it is not the New Zealand Rugby Union's responsibility to punish Mr. Filipo, and that we should not vilify the employer in these situations. (Steve Noon, *'NZRU is not Losi Filipo's judge, jury and counsellor'*, 30 September 2016).³⁹
 - (f) A Stuff Nation reader report advocating that the point of controversy should have been the Judge's decision to discharge Mr. Filipo without conviction,

³⁴ <http://www.stuff.co.nz/stuff-nation/assignments/share-your-news-and-views/15891430/The-time-to-legalise-cannabis-is-now>

³⁵ <http://www.stuff.co.nz/stuff-nation/assignments/should-medical-cannabis-be-legal/14256627/Cannabis-gives-me-days-when-I-can-function-and-don-t-hate-myself>

³⁶ <http://www.stuff.co.nz/sport/rugby/opinion/84693003/four-lives-for-one-rugby-player--the-high-cost-of-losi-filipos-late-night-attack>

³⁷ <http://www.stuff.co.nz/sport/opinion/87095179/let-violent-wellington-rugby-teen-losi-filipo-do-his-work-as-a-force-for-good>

³⁸ <http://www.stuff.co.nz/stuff-nation/assignments/bad-sport-boys-what-you-gonna-do/16042990/Rugby-jersey-is-a-get-out-of-jail-free-card>

³⁹ <http://www.stuff.co.nz/stuff-nation/assignments/bad-sport-boys-what-you-gonna-do/16087192/NZRU-is-not-Losi-Filipos-judge-jury-and-counsellor>

rather than the NZRU's failure to respond to the incident. (Noel Burland, *Losi Filippo case is about a flawed justice system, not rugby*, 29 September 2016).⁴⁰

- (g) An article from Henry Cooke analysing the current state of New Zealand rugby and its position in New Zealand society throughout its history, including a comment that "NZ Rugby is having one of its worst PR years since the Springbok Tour". (Henry Cooke, *New Zealand has matured a lot in the last forty years. Has rugby?*, 30 September 2016).⁴¹
- (h) An opinion piece from Peter Lampp referencing the "shambles" of the Losi Filippo saga, as well as the Chiefs' "strippergate", in the context of discussing Ms Farah Palmer being appointed to the New Zealand Rugby board. (Peter Lampp, *Opinion: From the front row to the top table for first woman on New Zealand Rugby board*, 1 December 2016).⁴²
- (i) A Stuff Nation reader report which recaps the "maelstrom" of misogynistic culture in New Zealand rugby, including the Mr. Filippo incident, and claims that rugby players are statistically no worse offenders than the average Kiwi. (Matt Greer, *Examining allegations of misogyny in NZ rugby*, 21 October 2016).⁴³

Assisted suicide

3. Stuff has published a variety of articles on the topic of assisted suicide, which resurfaced as a topic of debate in late 2015 after Lucretia Seales' story; the subsequent parliamentary inquiry; and the End of Life Choice Bill being lodged in the Parliamentary ballot in October 2015.
 - (a) An anonymous doctor explains at length why, based on their own experiences with palliative care, they do not support assisted suicide. (Anonymous, *A doctor's view: 'I do not support legalising assisted dying'*, 1 February 2016).⁴⁴
 - (b) An article by Dr Wendy Pattermore in which she describes how euthanasia will "cause great harm", and could lead to an increase in suffering. (Dr Wendy Pattermore, *Euthanasia an 'irremediable cost to our humanity'*, 15 February 2016).⁴⁵
 - (c) An article by David Seymour and Jacinda Ardern in which they put forward their opinions on voluntary euthanasia. Mr. Seymour, the member in charge of the End of Life Choice Bill, outlines why the Bill will give terminally ill people a compassionate option than the real choices they currently face. Ms. Ardern also supports voluntary euthanasia, but cautions that "very necessary safeguards and parameters" must be put in place. (David Seymour and Jacinda Ardern, *David v Jacinda: Right to die deserves a discussion*, 1 May 2016).⁴⁶

⁴⁰ <http://www.stuff.co.nz/stuff-nation/assignments/bad-sport-boys-what-you-gonna-do/16069563/Losi-Filippo-case-is-about-a-flawed-justice-system-not-rugby>

⁴¹ <http://www.stuff.co.nz/sport/rugby/84785463/New-Zealand-has-matured-a-lot-in-the-last-forty-years-Has-rugby>

⁴² <http://www.stuff.co.nz/manawatu-standard/87008888/opinion-from-the-front-row-to-the-top-table-for-first-woman-on-new-zealand-rugby-board>

⁴³ <http://www.stuff.co.nz/stuff-nation/assignments/share-your-news-and-views/16264210/Examining-allegations-of-misogyny-in-NZ-rugby>

⁴⁴ <http://www.stuff.co.nz/national/health/euthanasia-debate/76441518/A-doctors-view-I-do-not-support-legalising-assisted-dying>

⁴⁵ <http://www.stuff.co.nz/national/politics/opinion/76759253/Euthanasia-an-irremediable-cost-to-our-humanity>

⁴⁶ <http://www.stuff.co.nz/dominion-post/news/politics/79402222/David-v-Jacinda-Right-to-die-deserves-a-discussion>

- (d) An editorial opinion piece assessing what Lucretia Seales' legacy will be, given that euthanasia is a matter for Parliament to decide. (*Editorial: Assisted dying an issue for MPs*, 8 June 2015).⁴⁷
- (e) An article by Rosemary McLeod in which she expresses her opinion that "the cult of elder suicide seems to be gaining traction in this country", and that the "suicide option is so much cheaper" than sustaining an aging population. (Rosemary McLeod, *New life and old deaths - both inevitable and both scary*, 27 October 2016).⁴⁸
- (f) An article by Ken Orr on behalf of Right to Life, a "whole of life" pro-life organisation, pointing to the "international rejection" and failed efforts of overseas jurisdictions to implement euthanasia and assisted suicide laws. (Ken Orr, *Why Right to Life opposes euthanasia*, 1 July 2016).⁴⁹
- (g) A Stuff Nation reader report by a nurse who has worked in hospices and is opposed to euthanasia, and advocates that suffering may have a purpose or benefit - being that we appreciate "the things that have real meaning in life". (Michael Alexander, *Dare I suggest that suffering humbles us*, 10 February 2016).⁵⁰
- (h) A Stuff Nation reader report written by a woman with terminal stomach cancer, who is in favour of having an option of assisted suicide. (Lisa Thompson, *I don't want to suffer a painful and drawn out death*, 4 February 2016).⁵¹
- (i) A Stuff Nation reader report from a writer opposed to assisted dying, as it would rob people living with chronic illnesses (such as herself) of "the chance to live well in hard situations" and contribute to society. (Heather Roberts, *Why assisted dying isn't the answer for those with irreversible conditions*, 3 February 2016).⁵²

The Trans-Pacific Partnership Agreement

4. Fairfax attaches as **Annex One** a selection of stuff.co.nz articles on the Trans-Pacific Partnership Agreement. These articles demonstrate a range of perspectives on the TPP. For example:
 - (a) An article by Collette Devlin explaining that the Federation of Maori Authorities supports the TPPA, but also wants assurances that national sovereignty and a treaty partnership will be maintained. (Collette Devlin, *Federation of Maori Authorities supports Trans Pacific Partnership Agreement*, 1 February 2016).
 - (b) An editorial advocating that the TPP doesn't live up to the Government's "fervent talk", and argues that the words "free trade" should not automatically command cross-party support and spur New Zealand to join up out of fear. (*Editorial: The TPP is not a paragon of free trade*, 1 February 2016).
 - (c) An article by Terence O'Brien stating that New Zealand's decision to accept the TPPA is "effectively backing the American command of regional economic co-

⁴⁷ <http://www.stuff.co.nz/the-press/opinion/69168001/Editorial-Assisted-dying-an-issue-for-MPs>

⁴⁸ <http://www.stuff.co.nz/national/health/euthanasia-debate/85746626/rosemary-mcleod-new-life-and-old-deaths---both-inevitable-and-both-scary>

⁴⁹ <http://www.stuff.co.nz/national/health/euthanasia-debate/81335420/why-right-to-life-opposes-euthanasia>

⁵⁰ <http://www.stuff.co.nz/national/health/euthanasia-debate/76740629/dare-i-suggest-that-suffering-humbles-us>

⁵¹ <http://www.stuff.co.nz/national/health/euthanasia-debate/76558888/i-dont-want-to-suffer-a-painful-and-drawn-out-death>

⁵² <http://www.stuff.co.nz/national/health/euthanasia-debate/76515598/why-assisted-dying-isnt-the-answer-for-those-with-irreversible-conditions>

operation in East Asia" while China has been excluded. (Terence O'Brien, *So, what comes next for the Trans-Pacific Partnership Agreement?*, 3 February 2016).

- (d) An article written by Steven Joyce arguing that trade is very important for a small country like New Zealand, and that the TPP will benefit New Zealand. (Steven Joyce, *An open letter to TPP protesters from Steven Joyce*, 10 February 2016).
- (e) An article by Kennedy Graham in response to Steven Joyce's letter, refuting the Government's policy on the TPP and criticises the lack of analysis on its proposed benefits. (Kennedy Graham, *A TPP protestor's open letter to Steven Joyce*, 11 February 2016).

APPENDIX THREE

NZME EXAMPLES OF INTERNAL PLURALITY

John Key's resignation and Bill English's appointment as National Party leader and Prime Minister

1. *The New Zealand Herald* published a range of responses to the recent news that John Key would step down as Prime Minister, and of the subsequent appointment of Bill English as leader of the National party and New Zealand's new Prime Minister.
 - (a) An article by Deborah Hill Cone criticising Mr Key's time in office as ineffectual, and urging readers to "do the right thing" and learn how to "feel safe". (Deborah Hill Cone, *John Key's missed opportunities*, 12 December 2016).⁵³
 - (b) An article by Mike Hosking proclaiming that John Key is the "best Prime Minister" of his lifetime, comparing them to previous Prime Ministers and labelling Mr Key's record "impressive". (Mike Hosking, *John Key is the best Prime Minister of my lifetime*, 6 December 2016).⁵⁴
 - (c) An article by Rachel Stewart describing her growing discomfort with the National Party since 2008, and her disbelief at Mr Key's "uncanny ability to ride the rollercoaster of pure providence". (Rachel Stewart, *John Key era one giant facepalm*, 7 December 2016).
 - (d) An article by Barry Soper describing John Key leaving Parliament for the last time as Prime Minister, and Mr English's first press conference after being endorsed as the National Party leader in 2016. (Barry Soper, *End of an era as John Key hands reins to Bill English*, 13 December 2016).⁵⁵
 - (e) An article by Liam Dann assessing John Key's economic performance, scoring him a total of 6.6 out of 10 and concluding he "made the most of the market conditions he had to work with". (Liam Dann, *John Key's economic hits and misses*, 9 December 2016).⁵⁶
 - (f) An article by Fran O'Sullivan cautioning the National Party against automatically giving Mr English the nod for leader, and critically considering the other candidates; stating that National will have to work harder without "Brand Key". (Fran O'Sullivan, *PM choice should not be a dead cert*, 7 December 2016).⁵⁷
 - (g) An article by Audrey Young claiming that Mr Key won't leave a legacy after his time as PM; even though he shook up many areas and "dared to be different". (Audrey Young, *How John Key won't leave NZ a legacy and why it doesn't matter*, 10 December 2016).⁵⁸
 - (h) An editorial article discussing the sudden uncertainty of a National Party fourth term, and how the new National leader cannot ignore the issues which have bloomed under the Key Government, such as housing market issues. (Editor, *Successor to Key will have plenty on plate*, 6 December 2016).⁵⁹

⁵³ http://www.nzherald.co.nz/opinion/news/article.cfm?c_id=466&objectid=11764827

⁵⁴ http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11761157

⁵⁵ http://www.nzherald.co.nz/opinion/news/article.cfm?c_id=466&objectid=11766030

⁵⁶ http://www.nzherald.co.nz/liam-dann/news/article.cfm?a_id=106&objectid=11763975

⁵⁷ http://www.nzherald.co.nz/fran-osullivan/news/article.cfm?a_id=13&objectid=11761716

⁵⁸ http://www.nzherald.co.nz/opinion/news/article.cfm?c_id=466&objectid=11763876

⁵⁹ http://www.nzherald.co.nz/opinion/news/article.cfm?c_id=466&objectid=11760756

- (i) *A Herald on Sunday* editorial claiming that Mr Key's resignation means that "all bets are off" in next year's election. (Editor, *John Key leaves Winston Peters back in play*, 11 December 2016).⁶⁰
- (j) An article from Edward Rooney describing Mr Key's stint as Prime Minister as "an extraordinary run". (Edward Rooney, *Reflecting on John Key, at the end of the day*, 5 December 2016).⁶¹

Auckland rail infrastructure

2. The debate around Auckland infrastructure has always been a topic of interest, and especially so this year during the mayoral election. *The New Zealand Herald* has extensively covered different views and opinions on the state and future state of Auckland infrastructure. One specific issue on which many opinions have been expressed is proposed rail systems in Auckland, including light rail, and the "City Rail Link", on which construction began a year ago. The following articles express a range of views on these additions to Auckland's transport infrastructure landscape.
 - (a) An article by Bernard Orsman outlining then-mayoral candidate Phil Goff's view for Auckland light rail; a \$1b-\$1.3b project which would start construction in 2019-2022. The article also briefly outlines each mayoral candidate's transport policy. (Bernard Orsman, *Light rail a priority for Auckland mayoral candidate Phil Goff*, 7 September 2016).⁶²
 - (b) An article by Bernard Orsman calling the City Rail Link "New Zealand's biggest transport project" and a "no-brainer". Mr Orsman goes on to voice concerns about billowing costs of \$3.4 billion and beyond. (Bernard Orsman, *An open letter to the new Auckland Mayor*, 17 September 2017).⁶³
 - (c) An article by Bernard Orsman detailing Labour's policy proposal to spend \$680m to start building light rail from Wynyard Quarter to Mount Roskill, which Labour leader Andrew Little proposed to cut travel times, reduce congestion and pollution, and boost productivity. (Bernard Orsman, *Labour to fund early start on light rail in Auckland*, 30 October 2016).⁶⁴
 - (d) An article which outlines Steven Joyce's response to Labour's proposal, calling it "panicking" and "pork barrel" politics. (*National says Labour's \$680m Auckland light rail policy 'pork barrel politics'*, 30 October 2016).⁶⁵
 - (e) An article by Isaac Davison detailing John Key's opinion on light rail; that an improved bus network could solve Dominion Road's traffic congestion better than Labour's proposed light rail project - especially since light rail projects are notorious for cost blowouts. (Isaac Davison, *Buses, not light rail, could be solution for Auckland traffic*, 31 October 2016).⁶⁶
 - (f) An article by Nicholas Jones detailing Winston Peters' criticism of Labour's plans, the cost to taxpayers, and the fact that the regions are being neglected. (Nicholas Jones, *'Big city' politicians have eyes for only Auckland- Winston Peters*, 6 November 2016).⁶⁷

⁶⁰ http://www.nzherald.co.nz/opinion/news/article.cfm?c_id=466&objectid=11764043

⁶¹ http://www.nzherald.co.nz/the-country/news/article.cfm?c_id=16&objectid=11760760

⁶² http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11704659

⁶³ http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11710669

⁶⁴ http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11738312

⁶⁵ http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11738723

⁶⁶ http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11738987

⁶⁷ http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11743226

- (g) An article providing an update on the progress of the City Rail Link; the builders say that the project is on target. (*City Rail Link making good progress*, 12 December 2016).⁶⁸
- (h) An article by Bill Bennett detailing a conversation with Heart of the City CEO Viv Beck, where she describes the city projects as "the most significant change in its history", and describes why she is optimistic about Auckland's future. She also outlines challenges; for example, keeping as much commercial activity going while the City Rail Link construction is underway. (Bill Bennett, *Project Auckland: Building a world class city*, 14 December 2016).⁶⁹
- (i) An article by Liam Dann lamenting how long it took a project similar to the City Rail Link to get underway; something similar was mooted in 1923 at an estimated cost of \$440,000. He claims that "getting anything done in this city has been a nightmare for most of its history". (Liam Dann, *Project Auckland: New roads great, but long overdue*, 14 December 2016).⁷⁰
- (j) An article by Connal Townsend describing Auckland, and the City Rail Link, as a "perfect illustration" of a "she'll be right" attitude which impacts the timely provision of infrastructure and economic productivity. Mr Townsend suggests that the City Rail Link's potential may have been compromised due to reducing the number of stations and access points. (Connal Townsend, *Project Auckland: Plan infrastructure decades ahead*, 14 December 2016).⁷¹

The Trans-Pacific Partnership Agreement

3. New Zealand's participation in the TPPA has also been a significant source of content for *The New Zealand Herald*. The *Herald* has published a range of opinions, including politicians, academics, and Herald columnists. A selection of articles on the TPP is described below:
 - (a) An article by Professor Jane Kelsey describing the National Party's view of the TPP as "bad wine repackaged in new bottles", and claiming "it's time to declare New Zealand a TPP-free zone. (Jane Kelsey, *TPP - all pain, no gain*, 4 February 2016).⁷²
 - (b) An article by Rodney Hide disagreeing with Jane Kelsey, and arguing that the "Marxist perspective" is twisted and false. (Rodney Hide, *TPP deal done, sun still shines*, 11 October 2016).⁷³
 - (c) An article by Bryan Gould claiming that the TPP is no exception to the secretive rules around international treaties, and it may affect New Zealand's democracy as a whole. (Bryan Gould, *TPP signing a denial of democracy*, 14 January 2016).⁷⁴
 - (d) An article by Todd McLay, New Zealand Trade Minister, claiming that the signing of the TPP is important for New Zealand, as we are a small export nation and trade is "our lifeblood". Mr McLay also tries to answer concerns raised about loss of sovereignty, foreign investors suing the government, and Maori rights. (Todd McLay, *A cause to celebrate*, 4 February 2016).⁷⁵

⁶⁸ http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11765398

⁶⁹ http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11766527

⁷⁰ http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11766475

⁷¹ http://www.nzherald.co.nz/opinion/news/article.cfm?c_id=466&objectid=11766518

⁷² http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11584252

⁷³ http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11527183

⁷⁴ http://www.nzherald.co.nz/opinion/news/article.cfm?c_id=466&objectid=11573810

⁷⁵ http://www.nzherald.co.nz/trans-pacific-partnership/news/article.cfm?c_id=1503950&objectid=11584253

- (e) An opinion by Bryce Edwards, who states that Labour's approach to the TPP is a "disaster", Labour is appearing weak and divided, and the mixed messages are drawing criticism from all sides. (Bryce Edwards, *Political roundup: Labour's TPP disaster*, 15 October 2015).⁷⁶
- (f) An article by Brian Fellow which states that the choices presented by the TPP are binary, and 'doing the numbers' tells us nothing about whether it will benefit New Zealand. (Brian Fellow, *TPP economy figures tell us nothing*, 29 January 2016).⁷⁷
- (g) An article by Fran O'Sullivan stating that John Key's press conference with Joe Biden should have had a greater focus on the TPPA, and that while there is a struggle to deliver on a deal that has been signed but not ratified, it is important that the Obama administration give the TPP "a solid go". (Fran O'Sullivan, *Never mind the warships - passing the TPP is what matters now*, 23 July 2016).⁷⁸
- (h) An article by Jim Rose detailing what is, in his opinion, the "correct stance" on the TPP, which is "lukewarm opposition". Mr Rose calls for more details, and consistency - calling the intellectual property chapters of the agreement "truly suspicious". (Jim Rose, *Correct economic stance on TPP is lukewarm opposition*, 10 February 2016).⁷⁹
- (i) An article from Polly Gillespie voicing her opinion on the TPP, in which she somewhat satirically considers the pros and cons of the TPP, and concludes she is "rather anti". (Polly Gillespie, *The TPPA just got sexy*, 1 February 2016).⁸⁰
- (j) An article from Francis Cook which details various New Zealand business leaders expressing their disappointment that the Trump administration has quit the TPP; for example, Business NZ chief executive Kirk Hope describes the calling-off as "an absolute blow". (Francis Cook, *TPP axing a 'blow' to NZ say biz leaders*, 22 November 2016).⁸¹

⁷⁶ http://www.nzherald.co.nz/opinion/news/article.cfm?c_id=466&objectid=11529770

⁷⁷ http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11581535

⁷⁸ http://www.nzherald.co.nz/trans-pacific-partnership/news/article.cfm?c_id=1503950&objectid=11679642

⁷⁹ http://www.nzherald.co.nz/opinion/news/article.cfm?c_id=466&objectid=11587252

⁸⁰ http://www.nzherald.co.nz/lifestyle/news/article.cfm?c_id=6&objectid=11582599

⁸¹ http://www.nzherald.co.nz/trans-pacific-partnership/news/article.cfm?c_id=1503950&objectid=11752905