Cross-Submission to the Commerce Commission on NZME/Fairfax Responses to Draft Determination on Merger Authorisation[1]

Prepared for the CBB by Peter A. Thompson[2], December 2016

The Coalition for Better Broadcasting [3] would like to provide a cross-submission responding to NZME and Fairfax's own submissions to the Commerce Commission's Draft Determination on Merger Authorisation for NZME Limited and Fairfax New Zealand Limited. Regrettably the CBB cannot be present for the forthcoming conference on the merger issue on 6-7 December, but we hope the following observations will help inform the proceedings.

One preliminary matter we would like to highlight- more as a wider matter of principle rather than a point of contention in regard to the specific question of whether the Commission's draft determination was correct- is the fundamental asymmetry between the resources available to the corporate interests behind the merger proponents and those available to independent commentators and public interest groups like the CBB (including the capacity to send representatives to conference hearings). Matters of the public interest and social justice need to be determined by judicious consideration of the facts and the arguments which can be logically deduced (or at least inductively inferred) from them, not by the capacity to hire a bigger-name lawyer or commission expert reports from overseas[4], especially when cross-submissions on the draft determination have less than a week to respond to hundreds of pages of dense and technical argumentation and data (with much of the substantive data redacted). When matters of potentially far-reaching public significance are at stake we would suggest that there is a need to proactively solicit informed views from a wide range of stakeholders, not just rely on those which are sufficiently pro-active and motivated (or opinionated!) to bother responding.

Insofar as the Commerce Commission is the statutory representative of the Crown while the applicants represent the private commercial interests of their shareholders, it is worth noting that civil society and the wider public interest have had to rely on the good will, time and personal resources of a small number of voices with the wherewithal to offer informed comment. If (or when) this matter ends up in court, it will be interesting to see who, if anyone, is invited to represent the public- after all, it is their interests, not only those of NZME and Fairfax that are at stake. Irrespective of the technical legal interpretations, at the heart of the Commerce Act and the Commerce Commission's role is the intention to promote competition for the "long-term benefit of consumers" (Commerce Act S. 1A). We were therefore encouraged by the NZME/Fairfax legal submission (para 14) which duly noted that market competition was ultimately a means to securing this end.

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[1] http://www.comcom.govt.nz/dmsdocument/14943

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[3] The CBB is an independent charitable trust with a grassroots membership, board of trustees, chief executive and regional committees. The Trust is non-profit, has no political party affiliation or vested interest in any commercial enterprise. Our primary interest is to inform civic debate and policy formation in regard to public service broadcasting, although media convergence extends the scope of our concern to other platforms and content providers, particularly those which support public interest journalism. See the Coalition for Better Broadcasting website http://betterbroadcasting.co.nz/about-coalition-better-broadcasting/structure-people/

[4] Although the CBB acknowledges the expertise of David Levy and Robin Foster and broadly concurs with their analysis of the issues, it is curious that no New Zealand academics were apparently deemed worthy of consultation either by the Commission or by the applicants.

Fairfax and NZME have made a number of submissions in response to the Commission's draft determination declining to authorise the proposed merger. These include both a 'factual submission'[5] a 'legal submission'[6] a commissioned response from NERA[7] and a range of other submissions mostly from the editors of various NZME and Fairfax publications. The CBB also notes that NZME and Fairfax have issued a public letter signed by over 30 editors of their various publications supporting the merger (although we note that the E'tu union submissions strongly suggest the editorial submissions do not align with the more sceptical views of the journalists, while several former print news editors have opposed the merger).

The CBB was interested to read the various submissions from NZME/Fairfax editorial staff on the merger, including the open letter supporting the merger signed by over 30 editors[8]. Indeed given the CBB's previous submission- preceding the open letter- in which a very basic content analysis of NZME and Fairfax coverage of the merger issue found prima facie (albeit not conclusive) evidence of a skew favouring pro-merger voices (especially those of Fairfax/NZME senior management), it was somewhat ironic to note that the editors' unequivocal support for the merger was intended to constitute an assertion of their respective institutional and editorial independence. If NZME and Fairfax already have a structural tendency to use their own publications to promote an institutionally preferred view of a public policy issue in which they have a vested interest, then there is minimal likelihood of a merged entity exhibiting greater independence and editorial dissent.

We would nevertheless emphasise that we concur with the concerns about the current parlous state of the print/online news sector and the likelihood that the counter-factual scenario will result in NZME and Fairfax facing some extremely challenging market conditions with a strong probability of (further) cuts in newsroom budgets and journalistic redundancies. We would also like to emphasise that the CBB's arguments raising concerns about editorial independence and plurality (however one defines it) are not aimed at the many capable and hard-working journalists and editors who have endeavoured to sustain high quality news reporting under very difficult circumstances.

The concerns about the impact of the merger on editorial independence and plurality should therefore not be read as casting aspersions on the professional integrity of individual news workers. The concern is structural, rather than instrumental. The strong probability is that under new ownership and shareholder priorities, the (inevitable) drive to reduce costs and optimise profits and share value will result in further reductions of budgets, the imposition of ever-shorter time-frames for profit targets, and the diversion of resources to those media activities most likely to optimise revenue. These are not the decisions that editors or journalists can make- they are the underlying operational parameters of their institutional existence.

Given that there is no way to be sure who or what might acquire the merged entity (whether a Rupert Murdoch-type mogul who might be inclined to dictate editorial perspectives, a private vulture fund out to strip assets, or a random group of pension funds run by algorithms which are unaware that they even own a media company) there is also no way the applicants' claims that the merger will ensure editorial independence and reinvestment in quality journalism can be taken as anything more than optimistic speculation. Considering that both NZME and Fairfax currently remain profitable (and some would argue respectably so in the current economic climate), it is worrying that the prospect of imminent cuts under the counterfactual is raised when such considerations are currently operational choices for NZME and Fairfax, not an inevitable consequence of the Commission's decision. On that point, it is disappointing that some of the applicant's claims about the negative consequences of declining the merger seem to take the rhetorical form of a threat rather than a neutral analytical prediction of the counter-factual.

None of the submitted evidence we have reviewed leads to a revision of the argument that the merger will not be sufficient to secure the conditions needed to sustain the business model of the print/online news media sector. The best case scenario is that the merged entity's increased operational efficiency will temporarily increase advertising revenue (which is a zero-sum game in the domestic market and is likely to be gained at the expense of the smaller news media publications rather than Google or Facebook) and defer

[5] http://www.comcom.govt.nz/dmsdocument/15020

[6] http://www.comcom.govt.nz/dmsdocument/15019

[7] http://www.comcom.govt.nz/dmsdocument/15023

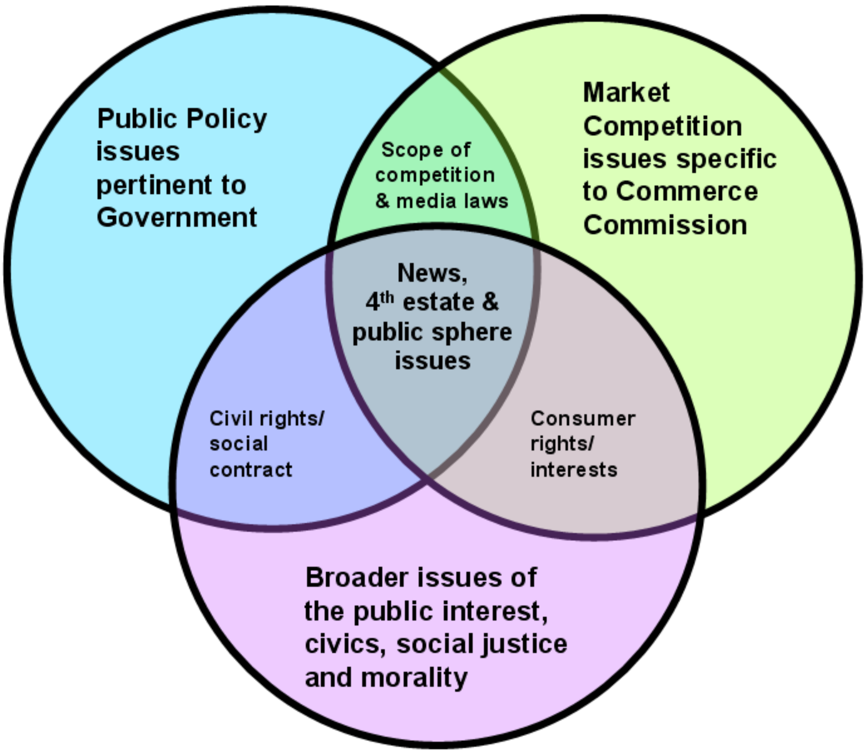
[8] http://www.stuff.co.nz/business/86782357/editors-tell-the-commerce-commission-declining-media-merger-is-wrong

some of the cuts and redundancies which have historically accompanied media mergers of this kind almost without exception (see original CBB submission).

There are two key but flawed arguments in the applicants' submission which need to be highlighted here. The first is the claim that matters of quality and plurality in respect to the diversity of perspectives in the news entail intangible concerns about public interest matters which lie outside the scope of the Commerce Act and therefore the Commission's jurisdictional boundaries, leading to the assertion that the Commission has overstepped its remit. Having made various claims about the public benefits of the merger which strongly imply consideration of such intangibles it seems rather disingenuous for the applicants to now declare such factors 'out of bounds'. Insofar as NZME and Fairfax have chosen to prioritise such a line of argumentation in an attempt to excise concerns about news quality and editorial independence from the Commission's consideration, their claims of continuing commitment to such values ring distinctly hollow.

Nevertheless. we would agree that the plurality question is complex and manifold and in need of more careful scrutiny. Even if *some* of the broader issues of plurality do lie in the realm of public policy rather than under the definitions of the act, it does not follow that *all* aspects of plurality do[9]. Two possible operational definitions that would certainly seem to be germane to the Commerce Act are a) plurality in the sense of the number of market competitors and their respective market shares (which can be quantified), and b) plurality in the sense of the range of choices available to consumers (which in this case just entails perspectives made available through the news, rather than, say, flavours of soda-pop).

The arguments about media plurality intersect several spheres of policy debate as the diagram below indicates. By way of example, the issue of news quality and editorial integrity was a concern for the Law Commission's 2013 report on news media regulation in the digital environment[10]. But if that was a public policy concern, it surely does not mean that the Commerce Commission is therefore unable to consider the dimensions of news media plurality *pertinent to its own remit*. The applicants' legal position is that because concerns about editorial independence, news quality and plurality would fall into the intersection of the public policy sphere and broader issues of the public interest (i.e. civil rights and social contract issues), *only* issues specific and exclusive to the market competition sphere are eligible for the Commission's attention.



[9] We note that in section 33 of the legal submission, there is a misinterpretation of the arguments of Denis McQuail and Damien Tambini- both are correct in their caution about 'plurality' as a concept and its historical deployment in rhetorical arguments. But ironically it is the deployment of pluralism as a defence of market liberalism that is the problem, and it seems unlikely that either would want their work to be used in the defence of the Fairfax/NZME merger. We recommend the Commission contact them to check.

[10] See http://r128.publications.lawcom.govt.nz/

However, the fact that there are *some* broader elements of plurality entailed in the consideration of news media and the public interest which constitute public policy issues or matters of the public interest does not mean *that the elements of plurality pertinent to competition* in the news media identified above are ineligible for consideration. These spheres of debate overlap in ways that cannot be so easily excised by legal rhetoric. Indeed, were one to define *all* public policy considerations entailing any intangible public interest concerns as lying beyond the scope of the Commerce Act, then it would effectively imply that *any* form of commercial transaction or market failure could be expediently reclassified as falling into the sphere of public policy for the government, rather than the Commission to deal with. Taking such a narrow interpretation to its logical conclusion, the 'long term benefit of consumers' would no longer be an applicable part of the Act and the Commission would effectively be redundant. This would hollow out and redefine the legal purpose of the Act in protecting the long-term interests of consumers, although perhaps that is precisely what the applicants' are seeking in order to further their shareholder's private commercial interests. If so, this surely cannot be allowed to happen.

That said, we would agree with the applicants that there is one important public policy issue here that lies outside the scope of the Commerce Commission's jurisdiction- but that issue is the matter of how NZME and Fairfax can survive in the digital environment given that they represent such a significant proportion of the news media in the NZ media ecology and by extension, provide a range of intangible benefits to the public. The purpose of the Act is primarily to protect the *public interest*, not the business models and wider interests of NZME and Fairfax shareholders. It is on the premise of the former, not the latter, that the applicants' arguments must be considered, so it would seem self-defeating to de-centre or excise the very public interest concerns upon which their own case ultimately hinges.

This leads to the second key argument which is flawed. The NZME/Fairfax submissions argue that the question of public benefits or detriments can only be determined by reference to efficiency gains and welfare economic calculations. Ostensibly intangible benefits or detriments are dismissed as immaterial or as public policy concerns which lie outside the scope of the Commission's jurisdiction. Moreover, in several places the primacy of economic calculation is cited as a pretext for disregarding arguments premised on intangible factors. Unfortunately, these claims are premised on an erroneous assumption of market realism (specifically the assumption that economics is a science and that its formal models and objects of analysis have the epistemological status of physical science) coupled with the naïve positivist notion that only variables that are measurable/quantifiable have ontological status i.e. can be considered real.

The simple fact of the matter is that formal economic concepts like efficiency are themselves intangible social constructs just as much as notions of plurality and the public interest. The formal models that enable ostensibly neutral calculations/quantifications to be made do not correspond to any external object of referent in the same manner as the natural sciences. They may entail mathematical formulae but their nature is just as intangible as more abstract notions of the public benefit and their truth –value is dependent on correspondence with the models deployed. The calculation of welfare in a substantive sense is therefore far from straight-forward, especially when the retail side of the market involves a product currently provided free at the point of access and carries no transactional dollar value. The range and quality of consumer choice in regard to media products and services is highly qualitative and therefore intangible. Admittedly, this complicates the methodology but in no way does it render such considerations irrelevant to substantive matters of market competition.

On that point, it is significant that the original NERA analysis acknowledged the intrinsic difficulty of applying standard competition models to a two-sided merger scenario, duly identified their methodological limitations and then submitted calculations primarily on the wholesale (advertising) side. It is also noteworthy that NERA's supplementary analysis supporting the applicant's efficiency claims is so heavily redacted that even if such calculations were valid, no third party (except presumably the Commission) could verify them.

We would therefore argue that NZME/Fairfax's insistence that only quantifiable calculations of efficiency can be taken into consideration is too narrow. For the reasons outlined previously, the public benefit test cannot be reduced to an economic calculation that overlooks intangible but substantive dimensions of welfare (and more specifically, welfare for the consumer on the retail side). Furthermore, the applicants' arguments about the welfare benefits appear to be premised primarily on the internal productive efficiency gains (i.e. reduced costs) for the companies and the advertisers. These calculations may or may not be valid, but we would reiterate the point in our original submission that NZME/Fairfax have *conflated the retail side with the wholesale side.*

In particular, the insistence that NZME/Fairfax are competing directly with Google and Facebook and other global media may be valid in respect to the wholesale side of the market where platform-agnostic advertisers seek audience eyeballs and clicks through any platform and regardless of content. But we would reiterate that the retail side of the market is not as broad as the applicants suppose- specifically, it is the market for New Zealand news that defines the relevant market in question, and such content is not substitutable for other forms of news from overseas or non-news media content. It is also important to note that the online news environment and the establishment of smaller independent news providers such as *Newsroom* does not demonstrate that any and all market entrants could thrive and grow in the current market- indeed if that were the case, NZME and Fairfax would presumably not be under the pressures that have led to the merger application.

On a final point, given the arguments concerning the validity and admissibility of intangible factors, the CBB is interested to note that the Hirfindahl–Hirschman Index projections of market concentration which were included in our original submission appear not to have warranted any further comment. That is the Commission's prerogative but given that this does allow a quantified calculation of relative market concentration under both factual and counter-factual conditions, and is used to inform market competition deliberations in many other countries (including the USA), it seems highly salient to the current case. We are therefore including the relevant section of our original submission in the appendix. If the figures we have had to estimate are incorrect, we trust that the Commission will be able to elicit more accurate data from the applicants.

For the reasons outlined above the CBB therefore continues to endorse the Commerce Commission's draft determination declining to authorise the NZME/Fairfax merger.

Appendix: From the CBB's original submission on the NZME / Fairfax merger[11]:

6.0 Modelling Market Concentration under the factual and counter-factual scenarios

6.1 The NERA document submitted in support of the merger outlines several formal econometric approaches to modelling the proposed merger. However, it also acknowledges at various points the complexity of applying these models to a 2-sided media case (sections 2.3.4/ 3.1/ 3.1.1.2/ 3.2) and the potential that these may not be entirely valid. The figures in the document are so heavily redacted that it is impossible for a third party to discuss the findings in any detail. However, it is difficult to follow the precise reasoning for the conclusions suggesting minimally detrimental consequences and confirming public benefits. We suspect that even if the various calculations are valid, the interpretation of the findings has been shaped by some of the assumptions about the intrinsic benefits of efficiency gains without considering the more qualitative (but arguably more substantive) evidence of recent patterns of institutional behaviour in the news media sector. We also note that the arguments tend to support the merger more strongly on the wholesale (advertising) side than the retail (audience) side (the Bertrand and Cournot simulations were not applied to the retail side). As such, the NERA document cannot be considered definitive in its conclusions.

6.2 It is interesting that a fairly standard and mathematically straight-forward method for gauging market concentration and potential risks from a merger has not been deployed in the NERA discussion, namely the Herfindahl Hirschman Index[12] . The index is calculated as the sum of the squares of percentage market shares for all the actors in a given market. A 100% monopoly would score 10,000 (100 x 100). while 100 firms competing with a 1% share each would score 100 [(1 x 1) + (1 x 1) + (1 x 1) etc).]. Conventionally, a score of < 100 indicates a high level of competition; a score of <1000 is regarded as indicating a competitive market, a score of 1000-1800 is regarded as a moderately concentrated market, while a score > 1800 is regarded as highly concentrated market with limited competition. Mergers which increase the HHI index by > 100 points invite anti-trust concerns. (The US Department of Justice now takes a more relaxed definition and considers markets of between 1500-2500 to be moderately concentrated while mergers increasing the index by >200 raise antitrust concerns[13]).

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[11] http://www.comcom.govt.nz/dmsdocument/14488

[12] See Investopedia: Hirfindahl Hirschman Index. Available from: *www.investopedia.com/terms/h/**hhi**.asp* also see US Department of Justice https://www.justice.gov/atr/herfindahl-hirschman-index

[13] The relaxed US parameters are arguably an accommodation of the major corporate media interests in the US who have been lobbying for relaxed controls to facilitate cross-platform mergers, especially those involving telecom /internet sector takeovers of media content companies. There is ample evidence of very active media lobbying against any constraint on mergers and acquisitions; e.g.
http://www.smh.com.au/business/media-and-marketing/scrap-crossmedia-ownership-rules-fairfax-20140224-33chq.html
Also see http://www.bloomberg.com/gadfly/articles/2016-04-15/a-look-at-corporate-lobbying
Also see: http://www.epi.org/publication/books_cross-ownership/

6.3 The analysis below attempts to calculate an HHI index for both the factual and counter-factual scenario based on a retail side market defined by *daily audience shares* of New Zealand news sources. The figures have been adjusted to try and reflect the overall audience ratio for the 15+ population. Two calculations are presented, the first for the major news media including newspapers, television, radio, Including their online versions, and the second just for the newspaper sector (again including their online versions). Magazines have been excluded (few of which are specifically news oriented) as have the smaller regional and weekly newspapers, although NBR is includes because its online version has daily traffic (although note that including these would increase the relative market share for Fairfax and NZME and thus their respective and merged HHI scores). The reason for focusing on daily news audiences is that these can be regarded as a better indicator of broad audience routines and the potential for persistent media influence and editorial power than occasional publications.

6.4 The inclusion of other radio and television news media is premised on the applicants' claim that they are competing across platforms with all other information providers. While we do not accept the breadth of the applicants' market definition (including international news media and blogs), the above analysis does try and reflect all the significant New Zealand sources of daily news in New Zealand. In the case of broadcasting, only the major evening news audience of the two main channels (TV One and TV3 Newshub) are included (MediaWorks supplies Sky/Prime's news) while in the case of radio, the overall audiences for RNZ National, Newstalk ZB and Radio Live are included because are the main news providers (and other commercial stations within the respective NZME and MediaWorks groups do not produce their own news)

6.5 As with the NZME modelling, it is essential to provide several caveats about the calculations. Given the heavy redaction of commercial figures in the merger papers several figures (notably for online audiences) have been estimated from other data sources and may be imperfect[14]. If the Commerce Commission considers this data to be problematic, we would welcome the publication of more complete and accurate HHI indexes for the merger. As it stands, the online audience figures for Stuff and NZME are probably too conservative (although that favours the applicants in the calculation). Nevertheless, as ballpark estimate of how competition in the New Zealand market for news (retail audience side) will be affected by the proposed merger, the HHI indexes here should be considered plausible and reasonably valid.

Fig 1

Estimated Daily News Audience Share in New Zealand: All Media + HHI Market Concentration figures				
Controlling Media Group	**News Medium/ Publication**	**Approximate daily news audience**	**Approximate % News Audience Share per group**	**Herfindahl-Hirschman Index score (rounded)**
Radio New Zealand[15]	RNZ National	444,000[16]	20.3%	412
	RNZ Online & Wireless	52,000[17]		
TVNZ	TV One News	647,000[18]	27.5% (3.4% online market)	756
	TVNZ Ondemand[19]	27,000		

[14] It is worth noting that the 2016 NZoA/Colmar Brunton audience report observed that: "*"As technology expands and evolves, and audiences fragment in the face of ever-widening choice, it becomes more difficult to measure consumer behaviour across all sources. For instance there is no single source measurement of on air and online behaviour, and such a development looks to be at least several years away in New Zealand. There is therefore no way to measure duplicated or exclusive reach across different platforms."* The difficulty of applying economic models to a converged media market was also acknowledged by the NEPA analysis commissioned by the mergees.

[15] Data calculated from http://www.radionz.co.nz/about/audience-research plus NZ on Air/Colmar Brunton 2014 audience report http://www.nzonair.govt.nz/document-library/2014-audience-research-full-report/ plus Statistics NZ population data.

[16] 12% of 15+ audience share identified in NZOA/Colmar Brunton 2014 audience report, calculated in ratio to Stats NZ 2016 NZ population figures

[17] Based on RNZ monthly audience figures for the Wireless and RNZ Online divided by 31-possibly an underestimate.

[18] Nielsen data cited in http://www.nzherald.co.nz/entertainment/news/article.cfm?c_id=1501119&objectid=11603105

[19] Online audience estimated from SMI digital advertising data, Audit Bureau of Circulation Figures http://www.asa.co.nz/wp-content/uploads/2015/06/ASA-Advertising-turnover-report.pdf , and the 2016 Nielsen Media Trends report https://www.tvnz.co.nz/content/dam/images/tvnz-sales/Insights/TM_New%20Zealand%20Media%20Trends%202015_Summary.pdf Specifically, the audience levels are estimated by projecting the overall online audience from the total daily newspaper circulation then (assuming a more-or-less linear relation between audience size and advertising revenue) dividing this by the online market shares for each company- see NZME/Fairfax merger document, fig 13 & fig 16).

MediaWorks	Newshub TV3[20]	230,000[21]	15.9% (1.4% online market)	253
	Newshub Online[22]	11,000		
	Radio Live	148,000[23]		
NZME	Newstalk ZB[24]	286,000[25]	22.0% (6.0% online market) (204,000 total press NZME)	484 (1062 if merger proceeds)
	NZME Online Media	48,000		
	NZ Herald[26]	134,000		
	BOP Times	15,000		
	Rotorua Daily Post	7,000		
	Hawkes Day Today	20,000		
	Northern Advocate	12,000		
	Wairarapa Times Age	6,000		
	Wanganui Chronicle	10,000		
Fairfax	Stuff.co.nz	47,000	10.6% (5.8% online market) (212,000 total press Fairfax)	112
	Dominion Post	59,000		
	The Press	59,000		
	Manawatu Standard	11,000		
	Nelson Mail	11,000		
	Southland Times	21,000		
	Taranaki Daily	17,000		
	Timaru Herald	10,000		
	Waikato Times	24,000		
Allied Press	Otago Daily Times	35,000	2.0% (39,000 total press Allied)	4
	Greymouth Star	4,000		
	Allied Press online[27]	9000		
Independent	Ashburton Guardian	4,000	0.2%	0.04 (neg)
Independent	Greymouth Star	4,000	0.2%	0.04 (neg)
			Total 455 ,000 all daily newspapers	
Scoop Foundation	Scoop Independent News[28]	15,000	0.6%	0.4
National Business Review	NBR print edition[29]	13,000	0.8%	0.6
	NBR online edition	7,000		
TOTAL		**2,447,000[30]**		
		HHI Counter Factual (no Fairfax/NZME merger)		**2085**
		HHI Factual (Fairfax/ NZME Merger Permitted)		**2551**

6.6 As the analysis shows, the retail (audience side) market for news is relatively concentrated in New Zealand, with five major news media companies predominating. With NZME and Fairfax considered separately (counter-factual), the overall HHI score is 2085, which even on the looser US scale, indicates a moderately high degree of market concentration. The critical issue, however, is that the HHI score increases to 2551 in the event of a merger (factual) between NZME and Fairfax- an increase of 466 which must be regarded as highly problematic for its anti-trust implications. On that basis, the merger must be interpreted as creating an entity with an undue level of market power, not only in respect to its potential to influence pricing but in the concentration of editorial control under a single commercial entity and its implied capacity to the shape the national daily news agenda and frame political debates and issues. In short, the HHI increase suggests the merger constitutes an substantial reduction of competition and editorial plurality in the news

[20] Note that Mediaworks Newshub is currently the provider of news content for Sky and Prime TV.
[21] Calculated as for TV One news.
[22] Estimate calculated as for TVNZ Online
[23] 4% of 15+ audience share identified in NZOA/Colmar Brunton 2014 audience report, calculated in ratio to Stats NZ 2016 NZ population figures.
[24] Newstalk ZB has been included as NZME's main news-oriented radio station. Other radio stations would carry news but NZME is the one primarily dedicated to news/information. The overall radio news figure for NZME would be higher.
[25] 8% of 15+ audience share identified in NZOA/Colmar Brunton 2014 audience report, calculated in ratio to Stats NZ 2016 NZ population figures
[26] Daily Newspaper stats from Audit Bureau of Circulation rounded to nearest 1000.
[27] Estimated from the ratio of overall Allied Press circulation to NZME and Fairfax, projected to online.
[28] Estimated from Scoop monthly online traffic calculated for a daily basis: http://www.scoop.co.nz/about/about.html
[29] Estimated from NBR weekly readership data calculated for a daily basis: http://www.nbr.co.nz/article/quality-recession-boosts-nbr-readership-103339
[30] This figure would include duplication for people who use multiple news sources throughout the day.

media ecology.. If one breaks down the news market further and recognises the continuities in the way audiences access news content through traditional media platforms[31], for example continuing audience routines following news through newspapers and radio earlier in the day and television in evening, then there is a case to be made for considering the newspaper and their online counterparts as a discrete sub-market.

Fig 2

Company- Newspaper and Online Print market[32]	Audience (to nearest 1000)	%	HHI
NZME (not including radio)	252,000	43%	1849
Fairfax	259,000	44%	1936
Merged Entity	511,000	87%	7569
Allied press	48,000	8%	64
Ashburton Guardian	4,000	0.01 (neg)	-
Greymouth Star	4,000	0.01 (neg)	-
NBR	20,000	0.3	0.1 (neg)
Total:	587,000		
	HHI Counter Factual (no Fairfax/NZME merger)		**3849**
	HHI Factual (Fairfax/ NZME Merger Permitted)		**7633**

6.7 Obviously this narrower market definition diverges from the claims that the applicants have made in respect to market definition. However, insofar as they also note (figure 16) that 36% of the weekly news audience uses print news media exclusively, while a further 31% uses both print and online, this would surely suggest a significant proportion of the public for whom print news and hard-copy newspapers remain a primary source of news and information. Given that consideration, it is far from irrelevant to consider the shape of the newspaper/press sector in its own right. What the HHI figures suggest is that this is *already* an unacceptably concentrated market with existing anti-trust concerns. The proposed merger between Fairfax and NZME increases the HHI by a massive 3784. This constitutes a massive and substantial reduction in the level of competition and a commensurate increase in centralised editorial power in this sector,. Indeed, the merged entity would control 87% of the newspaper/online print market- a level bordering on a *de facto* monopoly- which must be regarded as an unacceptable loss of editorial plurality in the newspaper sector.

[31] NZ On Air / Colmar Brunton (2014) Survey of Regional TV Audiences. Available from: http://www.nzonair.govt.nz/document-library/regional-tv-audiences-research-2014/

[32] All data calculated as with previous HHI table.