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4 February 2022

Commerce Commission | Te Komihana Tauhokohoko
PO Box 105-222
Auckland 1143
New Zealand
Via email: registrar@comcom.govt.nz

Re: Commerce Commission Statement of Preliminary Issues on the News Publishers' Association's application seeking authorisation for collective bargaining

1. E tū is the union for journalists and editorial production staff in New Zealand. We have 684 members in news media at most major news outlets, including all but two of the parties to the News Publishers' Association application.
2. Thank you for altering us to the Statement of Preliminary Issues that the Commission published on 21 December and the opportunity to comment further if we have additional information.
3. As discussed in our letter of 8 December to the Commission, we are broadly supportive of the application made by the News Publishers' Association for an arrangement to enable collective bargaining with Meta and Google. Our letter last year contains our key arguments in support and so we don't seek to repeat them here.
4. As outlined in the Statement of Preliminary Issues, once jurisdiction is confirmed one way or another, the core substantive question the Commission is seeking to address is whether there is public benefit in agreeing to the collective bargaining scheme (the 'Proposed Arrangement') set out by the News Publishers' Association.
5. E tū submits that public benefit certainly is the case. The public are not well served when the key sources of news in this country are facing significantly less potential revenue than they should be getting, as a result of the practices of the global tech giants who are benefiting from the work of New Zealand journalists and offering little if anything in return, and the impact this has on staffing newsrooms and investing in journalism. Improve quality and choice for news media consumers will we submit be assisted by allowing the Proposed Arrangement to proceed and direct income back into news gathering.
6. We reiterate our concern about state broadcasters in our letter last year. We believe that the Proposed Arrangement should not exclude state funded broadcasters such as TVNZ, RNZ and Māori Television Service. As the News Publishers' Association has succinctly pointed out in its submissions, there is a significant imbalance of bargaining power between the global tech giants such as Google and Meta, and New Zealand media firms. While the News Publishers' Association suggest these state funded entities could seek to establish their own bargaining arrangements, we would submit that for this very reason of imbalance of power, it would be a stronger position for journalism in the country as a whole if the key media outlets were collectively covered by a single arrangement.
7. Finally, we would caution the Commission on relying too much on one of the broader factual matters you identify at paragraph 38 of the Statement of Preliminary Issues, being the "likelihood that New

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Stand like the kahikatea tree · To brave the storms · Embrace and receive one another · We are one together

Zealand news media companies would be supported by public funding in the long term". The determinantal impacts New Zealand news media entities are experiencing as a result of Google and Meta's practices are not new and they will exist irrespective of whether public funding (such as the current Public Interest Journalism Fund¹) are in operation. The existence of such funds does not negate the fact that New Zealand journalism suffers when the loss of potential revenue exists, and these challenges will be present with or without public funding.

Yours sincerely,

Rachel Mackintosh
Assistant National Secretary,
E tū

¹ See <https://mch.govt.nz/media-sector-support/journalism-fund>