

COMMERCE ACT 1986: BUSINESS ACQUISITION

SECTION 66: NOTICE SEEKING CLEARANCE

Date: 1 November 2013

The Registrar
Market Structure Team
Commerce Commission
PO Box 2351
Wellington

Pursuant to section 66(1) of the Commerce Act 1986 notice is hereby given seeking clearance of a proposed business acquisition.

Part 1: Transaction Details

1. The acquirer

1.1 Details for Bauer Media Group (NZ) LP

Name and position of person responsible for giving this Notice: Paul Dykzeul
Chief Executive Officer

Registered office: City Works Depot
Shed 12, 90 Wellesley Street
Auckland 1010
New Zealand

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Contact Person: Paul Dykzeul
Chief Executive Officer
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Email Address: PDykzeul@bauermedia.co.nz

1.2 In the first instance please contact:

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2. **The seller**

Registered office & physical address: APN Specialist Publications NZ Limited
46 Albert Street
Auckland
New Zealand

Postal Address: PO Box 32
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Auckland 1140
New Zealand

Telephone: +64 9 373 6616

Fax: +64 9 373 6528

Website: <http://www.apn.co.nz/>

Contact Person: Phil Eustace
Finance Director
APN New Zealand

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In the first instance please contact

Name: Alan Lear, Barrister

Email Address: alan.lear@antitrust.co.nz

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3. **Interconnected and associated entities**

3.1 The applicant is Bauer Media Group (NZ) LP (**Bauer**). Bauer has four core divisions: Bauer Magazines, Trader Group, Property Magazines and Netlink Distribution.

3.2 Bauer is a limited partnership and was registered on 21 December 2012. It is a wholly owned subsidiary of Heinrich Bauer Verlag Beteiligungs GmbH (**HBBH**) which acts as the Limited Partner of Bauer. HBBH also own Bauer Media (NZ) Limited, and this entity is the General Partner of Bauer. The wider Bauer Group, which has been managed by the Bauer family since its inception 137 years ago, is active in 16 countries worldwide.

3.3 Netlink Distribution (**Netlink**) is a trading division of Bauer. Netlink currently represents 33 different publishers in the New Zealand market, distributing publications to retailers across the country.

3.4 A structure diagram of Bauer is attached as Schedule 1.

3.5 The seller is APN Specialist Publications NZ Limited (**APNSP**), which operates APN's magazine business. The other main operating companies are APN New Zealand Limited, which publishes and prints The New Zealand Herald and provincial newspapers, and APN Online (New Zealand) Limited which runs the digital side of the business including The New Zealand Herald Online and GrabOne. These companies (collectively **APN NZ**) are ultimately owned by APN News & Media Limited, a company listed on the Australian and New Zealand stock exchanges.

4. The proposed acquisition

4.1 Bauer is seeking to acquire all of the assets used by APNSP in the publication of the New Zealand editions of the following owned magazine titles:

- (a) New Zealand Woman's Weekly;
- (b) Simply You;
- (c) Simply You Living;
- (d) NZ Listener; and
- (e) Crème.

4.2 Bauer is paying **[CONFIDENTIAL¹]** for the relevant assets.

4.3 In addition to its various other media properties, APNSP will retain the following licensed magazine titles:

- (a) New Idea;
- (b) That's Life!; and
- (c) Girlfriend.

4.4 The licensed magazine titles are owned by Pacific Magazines, the magazine publishing arm of Seven West Media Limited, Australia's largest diversified media network, which also incorporates Australia's largest television network. While Pacific Magazines retains ownership of the masthead, APNSP uses editorial teams separate from its other magazine titles to produce the content (some of which is obtained from the Australian edition), solicits advertising, sets the price and retains the advertising and cover price revenue. APNSP pays a licence fee to Pacific Magazines. The term of the current agreement is due to expire on **[CONFIDENTIAL]** with a right of renewal for a further **[CONFIDENTIAL]** years.

5. Commercial rationale for the transaction

5.1 The magazine industry is in decline. Alternative sources of content (many free) continue to cause declining readership. Alternative advertising platforms are causing declining advertising revenues, exacerbating the revenue impacts from the declining circulation. Magazines' share of total advertising spend has fallen from 11.7% at its peak in 2005, to 9.7% in 2012. In dollar terms, total magazine advertising revenues fell by 20% between 2005 and 2012.²

5.2 In the face of such decline, Bauer has two options:

- (a) spread its costs over a greater revenue stream (as this transaction seeks to do); or
- (b) **[CONFIDENTIAL]**

6. Transaction documents

6.1 Please see confidential Annex 1 for a copy of the Sale and Purchase Agreement.

¹ Subject to adjustment.

² Source: ASA industry data <http://www.asa.co.nz/stats.php>.

7. **No overseas dimension**

- 7.1 This is a New Zealand only transaction and hence no other competition agencies have been notified.

Part 2: The Industry

8. Goods and services supplied by the merger parties

Bauer

8.1 Bauer operates four core divisions (with aggregation occurring only in relation to magazines):

(a) Bauer Magazines:

- (i) Bauer publishes the following New Zealand titles: Woman's Day, The Australian Women's Weekly (NZ Edition), NEXT, Fashion Quarterly, Metro, CLEO, Taste, North and South, KiaOra, HOME, Your Home and Garden, Good Health Choices, Little Treasures and Recipes+.
- (ii) Bauer also imports into New Zealand (from Australia) Bauer titles including New Weekly, Lucky Break³, Cosmopolitan, Dolly, Harpers Bazaar, Australian House and Garden, Australia Top Gear, and Zoo⁴.

(b) Trader Group: is the trade publishing division of Bauer and includes magazines and websites Auto Trader, Deals On Wheels, Motorcycle Trader & News, Trade-A-Boat, Farm Trader and NZ Motorhomes, Caravans & Destinations.

(c) Property Magazines: produces the Property Press and operates the Property Press website.

(d) Netlink Distribution: distributes Bauer and independent third party publications to retailers in New Zealand.

8.2 See <http://www.bauermedia.co.nz> for further details on Bauer.

APN News & Media

8.3 APN News & Media has a diverse portfolio of media assets across Australia and New Zealand and is listed on the New Zealand and Australian stock exchanges. It publishes 20 daily and more than 100 non-daily newspapers across Australia and New Zealand.⁵

8.4 APN has "a portfolio of newspaper, digital and magazine titles that engage with almost 2.7 million people every week"⁶ across both digital and print platforms. APN's New Zealand portfolio includes The New Zealand Herald and regional newspapers, along with the recent launch of its own news service APNZ, in partnership with independent daily publishers. APN's response to the issues facing print media has been to increasingly focus on its digital offerings. Consistent with this approach, it owns online sites such as the NZ Herald Online and GrabOne.

8.5 Relevantly, and in addition to its core newspaper and online content, APN NZ will continue to publish the following titles: New Idea; That's Life!; and Girlfriend, as well as the various magazines which it inserts into its newspapers (**NIMs**) including CanvasMagazine; VIVA; TimeOut; Living; Travel; Weekend Magazine; Element and Bite.

³ Lucky Break is now produced in Australia with limited New Zealand content feeding into the overall magazine. New Zealand advertisements are added before the magazine is printed and circulated in New Zealand, though these account for only approximately 3 out of the overall 64 pages of the magazine (less than 5%).

⁴ A full list of Australia Bauer titles imported into New Zealand can be found at Schedule 3.

⁵ <http://www.apn.com.au/>.

⁶ APN Annual Report 2012, pg 9: http://media.corporate-ir.net/media_files/IROL/14/144006/2012_Annual_Report.pdf.

8.6 With joint venture partner Clear Channel Communication Inc (USA), APN also owns the Australian Radio Network, which in turn wholly owns The Radio Network New Zealand. The Radio Network has three of the top five national radio stations in New Zealand, with NewsTalk ZB, Classic Hits and Coast. APN NZ operates a printing division (APN Print) which nowadays is limited to printing its newspapers. APN NZ also has an indirect 50% shareholding in the street furniture provider, Adshel New Zealand Limited (which offers advertising space in bus shelters). APN NZ's corporate structure is provided as Schedule 2 (APN NZ has since sold its interest in APN Outdoor Limited).

8.7 See <http://advertise.nzherald.co.nz/> for further details on APN NZ.

9. Affected industries

9.1 There are approximately 3,000 magazine titles for sale in New Zealand. Approximately 300 of these are published in New Zealand, with the remainder imported from overseas, primarily from Australia, the United Kingdom and the United States.

9.2 Magazine publishers operate in a two-sided market, earning revenue from sales of advertising space to advertisers and sales of magazines to customers.

9.3 On the advertising side, the main clients are advertising agencies and media buyers (acting on behalf of advertisers) and major advertisers. Whether direct, or through an agency buyer, advertisers choose from a wide range of media platforms to target their audiences – including television, online, radio, magazines, outdoor and cinema. Advertisers are able to reach target demographics through each of these platforms and as a result they make decisions as to the ultimate choice, or mix, of platform(s) for a particular campaign based on price and effectiveness. As set out below, pitches for advertising campaigns by Bauer, TVNZ, radio networks and others reflect this reality, as does the fact advertisers have increasingly substituted to other platforms over the past five years. Indeed, magazine spend as a proportion of total advertising spend by Bauer's top 20 advertisers⁷ decreased [CONFIDENTIAL]% between 2008 and 2012. The result is that, even among major advertisers, more than [CONFIDENTIAL]% of their spend is on competing platforms.

9.4 On the readership side, magazine publishers sell magazines to customers via subscription (either directly or through subscription sites such as magshop.co.nz or isubscribe.co.nz); via insertion into daily or weekend newspapers (in the case of NIMs); and through retailers, including bookstores, supermarkets, newsagents, service stations and convenience stores. Publishers currently distribute through Netlink, Gordon & Gotch, smaller regional operators or via NZ Post to subscribers. APN NZ also use their newspaper distribution network for delivery to some subscribers.

9.5 Traditional magazine titles compete with other magazine titles (traditional and NIMs) but also strongly with other media. Television, online and newspapers are particularly close competitors.

9.6 The fundamental requirements of magazine publishing are: creating editorial material; attracting advertising; creating the publication using production systems; printing; and finally distributing the finished products to subscribers and retailers.

9.7 In-house staff and freelance contributors acting as independent contractors are the key sources of content, along with syndicated content from other magazines. Readers and advertisers exert pressure on the editors to source relevant and quality material. Production systems can be as simple and cost-effective as desktop publishing software, or as sophisticated as large-scale computerised systems. Publishers may contract out printing and distribution functions. There are a large number of printing firms nationally and internationally that provide competitive printing services.

⁷ As at 2012.

10. Recent and future industry trends

- 10.1 With some exceptions (notably NIMs), magazine circulation and magazine advertising revenues have decreased over the last decade, and this decline is expected to continue. The main drivers of these trends are set out below.

Decline in print magazine circulation

- 10.2 Magazines are a discretionary item. As directly substitutable content becomes increasingly available and accessible to consumers, consumer spend on printed magazines is falling. **[CONFIDENTIAL]** According to the latest Netlink Magazine Audit Report (July 2012 – June 2013) (**Audit Report**)⁸, which Bauer believes is the most comprehensive source of circulation data, traditional magazine circulation is **[CONFIDENTIAL]**% year on year.

- 10.3 A PricewaterhouseCoopers (**PwC**) study on the New Zealand entertainment industry from August 2012⁹ expressed a similar view:

“[d]eclines in circulations are expected to lead to decreases in print circulation spending, from \$207 million in 2011 to \$183 million in 2016, falling at a 2.5 per cent compound annual growth rate. Print consumer magazine advertising is expected to decline at around 2.5 per cent due to the shift to digital markets in terms of both circulation figures and advertising spend. Digital magazine advertising will grow to an estimated \$23 million in 2016 from \$4 million in 2011, a 43 per cent increase compounded annually. This reflects rising traffic seen on publishers’ websites as well as opportunities for advertising through mobile apps and tablets.”¹⁰

- 10.4 Bauer conducted research in January 2013¹¹ to determine reasons for slow magazine sales in the lead up to Christmas 2012 and in February 2013¹² to determine what readers thought was a reasonable price for a weekly magazine. Key findings include:

(a) **[CONFIDENTIAL]**

(b) **[CONFIDENTIAL]**

(c) **[CONFIDENTIAL]**

- 10.5 This shift is not surprising given the breadth of content sources now available. We set out below an overview of some of the alternative content available, including screenshots where relevant. Specific examples of content directly competitive with the parties’ magazine titles are set out in the constraints section below.

NIMs

- 10.6 The rise in NIMs has changed the print media landscape in New Zealand. Newspaper publishers are including weekly lift-out lifestyle magazines inserted into newspapers, such as CanvasMagazine, VIVA, TimeOut, Your Weekend, Living, Element and Sunday.
- 10.7 NIMs were established by newspaper publishers to compete for readership and advertising dollars with mass market weeklies. In this sense they have been successful, with NIMs attracting advertisers that previously did not advertise in newspapers.
- 10.8 Indeed, seven of the top 20 most read magazines in the country (based on readership data in 2012), are NIMs. Based on circulation, they feature even more prominently. APN NZ’s 14 NIMs (CanvasMagazine, Bite, VIVA, TimeOut, Element, Travel, Driven, Outdoors, HeraldHomes,

⁸ Confidential Annex 2.

⁹ See Annex 3.

¹⁰ See page 39 of the PwC report at Annex 3.

¹¹ The survey results are set out at confidential Annex 4.

¹² The survey results are set out at confidential Annex 5.

Commercial Property, Weekend, The Business, SuperSport/OnForm and Living) are not part of the proposed acquisition, and accordingly will remain as competing titles (as will those produced by Fairfax, e.g. Sunday).

Online Content

- 10.9 Websites cover the full range of topics and issues of interest to magazine readers. Readers particularly like the internet as it is free, up to date, visually engaging (going beyond static photos) and interactive. It is also easy for readers to isolate specific areas of interest. Some websites will be known by consumers and others will be discovered via search or through recommendations on social media.
- 10.10 As at 30 June 2012, 88% of New Zealanders were internet users.¹³ Further, the means of accessing the internet are developing rapidly, with smartphone and tablet usage increasing swiftly.¹⁴ For example, both the New Zealand Herald and Stuff websites are increasingly encroaching on content that was once the primary domain of women's magazines in New Zealand, by providing immediate free access to news, interviews, advice and photographs.
- 10.11 A screenshot of the Life and Style section of the NZ Herald website illustrates the point, as does even a cursory review of www.stuff.co.nz/entertainment or www.stuff.co.nz/life-style.

¹³ See Internet World Stats for New Zealand <http://www.internetworldstats.com/stats6.htm#oceania>.

¹⁴ See PwC report at Annex 3. In addition, a study conducted by Ipsos Media CT for Google in May 2013 found that smartphone use had risen to 54% of the New Zealand population in the first quarter of 2013, up from 44% in the first quarter of 2012 (see <http://services.google.com/fh/files/misc/omp-2013-nz-en.pdf>). Tablet penetration has reached 19% of the population and is expected to grow rapidly, see the report by the Interactive Advertising Bureau and PwC at Annex 6.

The New Zealand Herald

Search keywords...

WIN a foodie weekend for two by telling us your favourite dish.

National World Business Sport Technology Entertainment **Life & Style** Travel Opinion Motoring

Video

Life & Style RSS

Life & Style comment

This Weekend: Banging about Britomart

Nicky Park: Life & Style - this week's best bits

Modern Musings: What does it take to be a man?
How To Be A Man lists abound. Here's one that's making...

Modern Musings: Why do female drivers get a bad rap? (77 comments)

Shelley Bridgeman: Grey Lynn vs Bunnings (36 comments)
Grey Lynn locals are kicking up a stink about a proposed...

Protesters oppose 'big Bunnings box'

Most people can ditch vitamin D supplements - research
Auckland University researchers have dismissed the need for healthy adults to take vitamin D supplements to prevent the...

Blog: How machines have changed 'supportive wife' role (1 comments)
One of the greatest things to support the supportive wife was the advent of machines to help with all her housework.

Six vaccination myths busted
Let's address just a few of the common vaccine myths and explain why they're wrong.

Quick meals under the microscope
Making that ready meal look appetising on the packet requires plenty of photographic skill and maybe a little rearrangement...

INTRODUCING
ESTÉE LAUDER

Health & Wellbeing

Does Facebook make you sad?
A recent study about Facebook made headlines across the world with claims that using the social media made people sad -...
Why people are turning off Facebook

Food & Wine

Australia: Say cheese
CheeseFest - Australia's biggest cheese festival - hits Adelaide on October 26 and 27 at the picturesque Rymill Park.
Australia: The Agrarian Kitchen

Viva Magazine viva

ROCHFORD REES
Rose Rose Ro

10.12 These websites provide the same full range of content as traditional women’s magazines, including entertainment news and interviews (both local and international), fashion and beauty, stories and advice on relationships, careers and family, home and garden, craft, recipes, crosswords/puzzles, etc.¹⁵

10.13 Clearly, not all consumers will consider these websites direct substitutes. However, the continuing loss of circulation and advertising revenue reveals that increasing numbers do. Moreover, those demographics which do find online content directly substitutable are disproportionately valuable from an advertising perspective, making the issue all the more acute for magazine publishers.¹⁶ Ultimately, Bauer’s experience, its research, and advertising campaign wins/losses all support its view that sufficient consumers will substitute to alternative platforms to place those in the same market. Further detail about some of these alternatives is set out below.

10.14 International newspapers and magazine websites also provide a full range of content. For example, The Mail Online, the website of the United Kingdom based Daily Mail newspaper, provides the same range of content as women’s mass market weeklies. It is the most popular news website in the world, and recently announced plans to aggressively grow its online

¹⁵ See Annex 7A.

¹⁶ Statistics New Zealand has stated that use of online increases as incomes rise: http://www.stats.govt.nz/browse_for_stats/industry_sectors/information_technology_and_communications/HouseholdUseofICT_HOTP2012/Commentary.aspx.

presence.¹⁷ Similarly, the United Kingdom based Guardian newspaper launched a digital operation in Australia in May 2013, and reporting overall growth in digital revenues of nearly 30%, while its traditional print products decreased 11% year on year.¹⁸

10.15 New Zealand also has purely online magazines (such as Chelsey and Gloss) which carry the same full range of content as women's magazines.¹⁹ They include sections on fashion, beauty, health, lifestyle and entertainment. In addition, New Zealanders can access large amounts of content on online versions of international magazines.

10.16 There are also specialised websites which are directed at specific topics of interest. Many of these are affiliated to overseas magazines, but some are websites or blogs run by individuals. Social media platforms like tumblr.com allow individuals to easily set up media-rich, interactive websites which can and do compete with websites established by traditional mainstream media companies. For example, celebrity gossip sites such as <http://perezhilton.com/>, Gawker.com, celebitchy.com, and <http://jezebel.com/>.²⁰

10.17 Entertainment sites, from New Zealand and overseas (including websites of international celebrity magazines and television channels), provide up to date entertainment celebrity news, photos and interviews.²¹ There are also a vast number of specialist fashion and beauty websites, both local and international, including photographic spreads, editorial content, news and advice, and at times offering the ability to purchase the products featured. Online shopping websites, both of particular designers and for more generalised online stores, also offer fashion editorials and shoots.²²

10.18 Software applications – or “apps” – for use on computers, tablets and smartphones are quickly increasingly in popularity, providing access and immediate updates to users on the go.²³ Both APN NZ and Fairfax report increasing uptake of their Herald and Stuff apps. Many reputable international newspapers and magazines have apps, and some apps facilitate the sharing of information across users, or collate content from various sources, such as across fashion blogs, into one convenient place.²⁴ Apps are constantly improving, with users being able to easily find, download and display digital versions of newspapers and magazines, (whether free or paid for). Digital magazines range from digital copies of print magazines, to specially developed digital versions including interactive content. Readers can often buy an individual edition or subscribe to a magazine at a fraction of the cost of a physical magazine.

10.19 In light of the above, it is not surprising that PwC predicts that “the shift in emphasis to digital and online media is expected to continue apace, driven by the development of faster and cheaper digital devices (such as internet televisions, smartphones, tablets and notebooks), the increasing footprint of high speed connectivity and the advent of ultrafast broadband.”²⁵

Television

10.20 New Zealand free-to-air television carries content similar to that of magazines, including a substantial prime-time focus on “popular factual” reality television across the entertainment and

¹⁷ <http://www.guardian.co.uk/media/2013/jul/17/mail-online-growth-new-staff>.

¹⁸ <http://www.guardian.co.uk/media/2013/jul/16/guardian-cuts-annual-losses-digital-revenues>.

¹⁹ See Annex 7B.

²⁰ In addition, social media cuts out the need for the circulation of content by publishers of magazines, websites or blogs and allows celebrities and journalists to communicate directly with followers. Increasingly, news breaks on Twitter before being picked up by traditional newspapers or magazines. A study undertaken by the Universities of Edinburgh and Glasgow showed that Twitter tended to outperform newswires for speed of reportage in respect of sport and disaster-related events, and that ‘tweets’ identified a large amount of minor news items that had featured on Twitter but had been ignored by the mainstream media. (See http://eu.cmo.com/content/cmo-eu/home/articles/2013/7/9/twitter_vs_news_agency.html.)

²¹ See Annex 7C.

²² See Annex 7D.

²³ A recent study by Ipsos Media CT for Google (<http://services.google.com/fh/files/misc/omp-2013-nz-en.pdf>) found that in the first quarter of 2013 68% of smartphone users in New Zealand read news on their smartphone, on newspaper or magazine portals, or blogs.

²⁴ For example, Pinterest which allows the collation of various material from across the internet, Chicfeed, which aggregates photos from top fashion bloggers into one place, and The Cut on the Runway, which aggregates fashion shows and news.

²⁵ See page 4 of the PwC report at Annex 3.

lifestyle genres. Many of the personalities appearing on free-to-air television in New Zealand appear regularly in other media, including newspapers, NIMs, radio and magazines. More niche, youth-focused free-to-air channels like C4 and Four have a heavier focus on international entertainment content (e.g. America's Next Top Model, Glee, music videos).

10.21 In addition to free-to-air channels, SKY Television (which has about a 52% penetration rate of New Zealand households) offers a number of specialist pay television channels which provide content similar to that of magazines. There are various SKY channels focussing solely on entertainment, fashion, lifestyle, food and current affairs that are part of the basic subscription package.

10.22 As described above, the declining circulation revenue indicates that (consistent with the qualitative evidence) these alternative sources of content are causing significant substitution away from magazines.

Decline in magazine advertising

Decrease in circulation

10.23 The decrease in circulation is reflected in lower magazine advertising revenues and a lower share of overall advertising spend. Figures from the Advertising Standards Authority (**ASA**) demonstrate magazines' declining share of advertising spend. Magazines achieved advertising turnover of \$210 million in 2012, a decline of 19% from its peak of \$260 million in 2005. Over the same period magazines' total share of advertising turnover has decreased by 17%, from 11.7% in 2005 to 9.7% in 2012, reflecting the substitution to other media exacerbating the impact of the falling circulation. **[CONFIDENTIAL]**

Increasing popularity of alternative advertising platforms

10.24 Bauer's main advertisers' behaviour over recent years demonstrate the degree of competition within the advertising market. **[CONFIDENTIAL]**

10.25 Online advertising is expected to continue to make significant inroads into traditional media platforms' revenue. The ASA only began measuring "interactive" spend in 2003, yet it surpassed magazine spend in 2009/10, and by 2012 was 75% larger than magazines. And it's not slowing down. In August 2012 PwC predicted internet (wired and mobile) advertising spending to achieve a compound annual growth rate of nearly 15% in the period 2012 to 2016.²⁶ In fact, more recent results released by the Interactive Advertising Bureau (from research carried out in conjunction with PwC) show online advertising for Q2 2013 was 21% up on Q1, and 31% up on the same period in 2012.²⁷

10.26 In Australia, online advertising spend now **exceeds** that on free-to-air television.²⁸ Meanwhile, magazine share in Australia for the year ending 31st December 2012 **fell** 20.4% from the year ending 2011.²⁹

10.27 As a larger economy, Australia is likely to have attracted the focus of the major online players before New Zealand, but the relentless growth of online advertising in New Zealand suggests this is merely a timing issue. Indeed, in March of this year Google signalled an aggressive push in New Zealand, signing a deal with Ad agency VivaKi to sell 104 masthead ads on Google-owned YouTube over the forthcoming twelve months. In announcing this deal, Google stated that 43% of media in New Zealand is consumed via the internet and so the online advertising spend should match this figure. This would represent a significant increase from the current

²⁶ See page 14 of the PwC report at Annex 3.

²⁷ Annex 6.

²⁸ <http://www.marketingmag.com.au/news/online-ad-revenue-eclipses-tv-for-the-first-time-iab-australia-43580/#.UmilvqJHJqw>.

²⁹ <http://mediaweek.com.au/news/ceasa-releases-summary-of-2012-media-spend.html>.

17% share of advertising dollars spent online.³⁰ Google cites the United Kingdom as an example, where a full 50% of advertising spend is currently spent online.³¹

10.28 In addition to the growth of online, there has also been a substantial increase in the constraint imposed by television and radio on magazines in the last five or so years. This is for a number of reasons.

- (a) The proliferation of television channels over time has allowed advertisers to be far more targeted in their television advertising than they could in the past.
- (b) Television advertising is now far more cost competitive than it was in the past.
 - (i) Firstly, the proliferation of television channels (both free-to-air and paid) has meant the rates to advertise via television have fallen substantially.
 - (ii) Secondly, production costs have fallen dramatically:
 - the cost of equipment such as cameras, editing kit, have all substantially reduced, and the shift from costly film to the much more inexpensive digital recording technology has also directly affected production costs;
 - advertising companies, such as Brandworld, produce advertisements for clients at a much lower rate than it would cost to produce alone. They also use segments such as Family Health Diary, Eating Well and Discover to quickly (via short lead times) and cheaply promote products, many of which were previously advertised in magazines. With lower production costs, more spend can be put towards total amount of advertising space;
 - television companies, such as TVNZ, have also begun producing “branded content” for advertisers, such as “The Mix” which shows viewers how to mix drinks using advertisers’ product.
 - (iii) Finally, New Zealand viewers have become increasingly receptive to international content, meaning advertisements created for overseas markets can be reused in New Zealand with little more than a locally-accented voiceover.

10.29 In addition, 1.66 million New Zealanders now watch television/video content on the internet in a typical average week.³² Television advertisers bundle advertising across online properties (such as TVNZ Ondemand, TV3 Ondemand and iSKY) and traditional television. Yet another option for advertisers is product placement and integrated sponsorship, e.g. via reality shows such as “The Block”.

10.30 Other advertising platforms also continue to evolve and remain major competitors for advertising spend. Radio is becoming increasingly competitive. The number of stations has increased dramatically and the production costs for radio advertisements has also fallen. In addition, radio is increasingly available online and advertising on radio stations is often provided as bundles which include advertisements on websites and smartphone apps. So-called ‘out of home advertising’ will “be driven by the growth of digital technologies which will allow advertisers to create eye-catching and innovative displays.”³³

10.31 As noted elsewhere in the application, the increasing competition from television, radio and other media drives magazine publishers’ behaviour on a daily basis. **[CONFIDENTIAL]**

³⁰ According to ASA figures for 2012, see <http://www.asa.co.nz/stats.php>.

³¹ The articles are provided in Annex 9 and 10.

³² Annex 6.

³³ See page 6 of the PwC report at Annex 3.

10.32 **[CONFIDENTIAL]**

10.33 Bauer fully expects the content and advertising markets will continue to rapidly evolve and converge, requiring all types of media – especially traditional print-based media – to adapt rapidly in order to maintain relevance.

11. **Recent consolidation in the industry**

11.1 Bauer is aware of the following mergers in the relevant markets affected by the transaction in the past three years:

- (a) September-October 2012: Bauer Media Group acquired ACP's trans-Tasman businesses from Nine Entertainment Co; and
- (b) (less relevantly) Decision 708: PMP Print Limited and APN Print Limited (16 December 2010).

Part 3: Market Definition

HORIZONTAL AGGREGATION

12. Relevant markets

- 12.1 Regarding advertising, Bauer's view is that the competitive effects of the acquisition should be assessed in the context of the national market for the supply of advertising services.
- 12.2 In terms of content, there is no precise science to categorisation given the substantial overlap between target groups of readers and the multitude of factors that influence different consumers to consume different content. Attempts to delineate consumers' content preferences into categories reveals the extent of this overlap. That suggests to Bauer that there is a national market for the production and supply of media content to customers (in all forms, including magazines and NIMs, online, television and radio). However, to assist the Commission's analysis, Bauer has employed the categories from the Audit Report, an industry-wide publication containing the most comprehensive information on magazine circulation. The proposed transaction will result in aggregation in the following Audit Report categories:
- (a) Mass market weeklies;
 - (b) Women's interest;
 - (c) Home and gardening; and
 - (d) Youth interest.

Advertising

- 12.3 The principal field of competition, from a magazine publisher's perspective, is maximising magazines' share of total advertising spend against advertising in other media. This is illustrated by the way in which advertising pitches are conducted.
- 12.4 Advertisers use a range of media for their advertising campaigns and substitute as necessary to extract maximum value from their advertising budget. While Bauer certainly believes that magazine advertising is effective and good value for money, it is in fierce competition with advertising in other forms of media, who, perhaps unsurprisingly, also believe the same of their respective media platforms. Considering the question in the context of the SSNIP test, a hypothetical monopolist magazine publisher would not be able to sustain an approximate 5% price rise, because sufficient advertising spend would be diverted to other platforms so as to defeat the attempted price rise. Advertisers might not switch all their magazine spend away from magazines, or even a majority of it. However, given magazines' comparatively low share of total spend (less than 10%), an advertiser would only need (or threaten) to increase its component of television share (for example) from 50 to 51% at the expense of magazines, to cause a more than 10% revenue reduction for the magazine publisher.
- 12.5 An analysis of wins and losses, and the manner in which media companies pitch for the advertising dollar, demonstrates this substitutability.

Bauer advertising pitches

12.6 [CONFIDENTIAL]

- (a) [CONFIDENTIAL]

- (b) [CONFIDENTIAL]
- (c) [CONFIDENTIAL]
- (d) [CONFIDENTIAL]

12.7 These pitches are not anomalies. They reflect every day commercial reality for Bauer: it must compete for advertiser revenue against other advertising media, and particularly against television, online, radio, newspapers and NIMs. Relevantly, its clear focus is on advocating the relative benefits of magazines (in relation to television, radio, etc.) rather than solely advocating the benefit of its magazines (in relation to rival magazine publishers Fairfax, APNSP, etc). Indeed, to underpin the credibility of its claims to advertisers, it expends considerable resources on market research – something it would not do nearly to the same extent if it did not view other media platforms as directly competitive. For example, Bauer has previously presented research to advertisers (from syndicated data) showing the effectiveness of magazines over radio as an advertising format.³⁴

Other media advertising pitches and promotions

12.8 It is not only magazine publishers that see themselves operating within a wider advertising media market. Other media forms also make claims to advertisers about the superiority of their advertising medium against others (and also expend substantial resources on research to underpin these claims). Naturally, Bauer has fewer examples in this regard, but notes the following:

- (a) **TVNZ marketing document³⁵**: in which five of the eleven pages are aimed at showing television's effectiveness and reach compared to radio, magazines, newspapers, online and outdoor.
- (b) **ThinkTV's series of promotional materials³⁶**: ThinkTV is an organisation comprised of TVNZ and MediaWorks, and is responsible for promoting the non-competitive interests of New Zealand's free-to-air broadcasters. It spends considerable resources on preparing material promoting television to advertisers ahead of other types of media. The two examples attached show television comparing itself on price and effectiveness to other media forms and marketing itself to smaller advertisers. There are many more resources that ThinkTV has collated/created here: <http://www.thinktv.co.nz/about-tv/why-tv-advertising-works/>.

Bauer's wins and losses against other media

12.9 The marketing strategies are consistent with the outcomes of pitches. Bauer wins and loses pitches against other media types [CONFIDENTIAL]:

- (a) [CONFIDENTIAL]
- (b) [CONFIDENTIAL]
- (c) [CONFIDENTIAL]
- (d) [CONFIDENTIAL]

³⁴ Confidential Annex 15.

³⁵ Confidential Annex 16.

³⁶ Annexes 17 and 18.

Advertisers are not captive to magazines

12.10 Most magazine advertisers have a wide portfolio of products, each of which are generally marketed via a range of different media platforms. Advertisers can, and do, vary the proportions of advertisements that they run through each media platform. Advertisers would seldom consider that they are “captive” to magazine advertising for a given product and even then, they could use their broader portfolio of products to “punish” magazine publishers for raising advertising prices.

12.11 An analysis of advertiser behaviour shows the substitutability of advertising platforms. The table below summarises the breakdown by product of the proportion of advertising spent with Bauer by two of Bauer’s largest customers; **[CONFIDENTIAL]**.

	[CONFIDENTIAL]	[CONFIDENTIAL]
Total number of products advertised	[]	[]
Products advertised with Bauer	[]	[]
Overall percentage of advertising spend with Bauer	[]%	[]%
Products advertised exclusively with Bauer	[]	[]

Data source: 1.Nielsen NZ AIS

12.12 This data shows that magazines are not an integral part of an advertising campaign for a substantial range of products – in all cases fewer than half of the advertiser’s products were advertised in Bauer magazines, with a low overall proportion of advertising spend going to Bauer. Only a very small number of products were advertised exclusively with Bauer, often being a subset of a wider product range (e.g. a specific **[CONFIDENTIAL]** within the **[CONFIDENTIAL]** range). **[CONFIDENTIAL]**

12.13 Further analysis of the specifics of the data demonstrates even more starkly that advertisers substitute between media. For example:

(a) **[CONFIDENTIAL]**

(b) **[CONFIDENTIAL]**

12.14 In Bauer’s view, the products within each range (**[CONFIDENTIAL]**) are clearly not so different that magazines would be appropriate for some, but not others. Rather, these examples show that for each product an advertiser makes a decision based on a number of tangible and intangible factors as to which advertising medium it should use. An increase in the price of magazine advertising by a hypothetical monopolist would result in a sufficient loss of advertising revenues to other magazines or other mediums, to defeat that price increase.

12.15 Even if a magazine advertiser considered that it was captive to magazine advertising for a certain product (which Bauer considers is unlikely given the alternatives set out above) it will not consider itself captive over many of its other products. Accordingly, even if a magazine publisher could identify which products the advertisers considered captive to magazines, it could not increase advertising prices in respect of that product, because advertisers would simply switch (or threaten to switch) their advertising spend on their other products to alternative media platforms. This is little different to a supermarket constraining a supplier from exercising

market power in one product by threatening to switch purchases away from the supplier's other products where it faces greater competition.³⁷

12.16 In addition, advertising space is often purchased through media buying agencies. These buyers (like creative agencies) represent a range of different clients and therefore have significant power when interacting with Bauer. **[CONFIDENTIAL]**

Previous Commission decisions

12.17 While previous Commission decisions have drawn a distinction between print media and other forms of media³⁸ Bauer considers this distinction no longer warranted, particularly in respect of mass market magazines (which the Commission has not previously considered).

12.18 In Decision 395 the Commission considered the acquisition of assets associated with the New Zealand Fisherman magazine. In that decision the Commission assessed the transaction within:

- (a) the national market for the provision of advertising services in the print medium in respect of recreational fishing and boating activities; and
- (b) the national market for the provision of news, information and entertainment services in the print medium in respect of recreational fishing and boating activities.

12.19 A large part of the market definition consideration involved the specialist nature of the publication in question. It was also decided well over a decade ago, before the internet had near the share of advertising dollars and readership that it does today (although even then, the Commission noted the increasing use of the internet for advertising).

12.20 In Decision 561, the Commission considered Fairfax's acquisition of local newspaper titles in Rodney. In that case the Commission specifically considered the substitutability of different media types, both on the advertising and the content side of the markets. The Commission in that case restricted the advertising and content markets to "print media" (although it considered the constraining effect of other media on the relevant print media titles). In one example, the Commission considered substitution between print and radio (para 74):

"Overall, the Commission found that advertisers are more likely to switch advertising spend percentages between print and radio rather than substitute between the two completely. While this may not be a universal occurrence, it is the predominant market practice as the different advertising types have different purposes and act as complements rather than substitutes. Accordingly, the Commission considers that radio advertising is not in the same market as print advertising, however it is taken into account as a complement in the competition analysis."

12.21 For a number of reasons, Bauer does not believe this analysis is applicable to the current application:

- (a) as described above, switching advertising spend percentages would be a direct reaction to any increase in price by a hypothetical monopolist – not all advertising would have to be switched away to other media in order to defeat a SSNIP;
- (b) other media types are substitutable for magazine advertising (and readership). Local newspaper advertisements often contain specific retail information on small local businesses. The magazine titles relevant to this transaction tend to attract national

³⁷ The Commission has recognised this constraint previously on a number of occasions, e.g. In *Fonterra Co-operative Group Limited and New Zealand Dairy Foods Limited* – 2005, decision 562, the Commission acknowledged that supermarkets would be able to: "threaten or impose sanctions on Fonterra across its portfolio of products, such as in those markets where Fonterra faces competition (e.g. yoghurt)".

³⁸ For example, Decisions 395, 420, 445 and 561.

advertisers who want to increase the brand image of a certain product, which can be done as effectively in other media formats; and

- (c) other formats, while often used alongside magazines, are not “complementary” in an economic sense. It is the substitutability of other media types that drives Bauer and other media organisations to devote significant resources to demonstrating to advertisers the benefits of their particular platform over others.

12.22 In a more recent decision on outdoor advertising³⁹, the Commission found that “all industry participants considered there to be some substitutability ... between billboards and other general advertising media. However, no party could articulate this substitutability with any degree of accuracy.”

12.23 These decisions demonstrate the increasing competition among different media types over time. To summarise:

- (a) 13 years ago (NZ Fisherman magazine, decision 395) the Commission stated the internet posed some constraint on print media, but ultimately determined a narrow market;
- (b) 12 years ago (cinema advertising, decision 420) the Commission accepted some substitutability with other forms of advertising but could not conclude the degree of substitutability;
- (c) 11 years ago (regional newspapers, decision 445) the Commission noted increasing substitutability between print and electronic media forms and, while they were not considered to be in the same market, the constraint served by other forms on the print medium was taken into account;
- (d) 8 years ago (Rodney newspapers, decision 561) the Commission noted the ‘increasing substitutability’ of the internet and print media and the fact advertisers changed their advertising mix between print and radio (albeit that they may not substitute completely) and ultimately cleared the merger on the basis of a narrow market; and
- (e) 2 years ago (outdoor advertising, decision 734), the Commission recognised that all industry participants considered there to be substitutability between billboards and other media forms, although, again, proceeded on a narrow market definition because it was not determinative.

12.24 If anything, continued technological developments have hastened this trend. Current market practice of advertisers and media platform operators shows clear evidence of the substitutability between mass-market magazine titles and other media types. Accordingly, it is now appropriate to reflect industry practice by defining an advertising market.

Content

12.25 Consumers read the parties’ magazines for a variety of different reasons including entertainment (celebrity news, human interest stories), lifestyle (home, garden and fashion) and news and current affairs.

12.26 In the context of a SSNIP test, an approximate 5% price increase in a magazine title would likely be defeated by sufficient consumers on both sides of the two-sided market (that is, readers and advertisers) switching spend away from that magazine. Switching would cause a direct loss of circulation revenue *and* a subsequent decrease in advertising revenue resulting from the lower circulation. However, substitution would not be limited to other magazines.

³⁹ Decision 734.

12.27 Many consumers would choose to dispense with magazines (or reduce their purchases) and switch to alternative media in response to a SSNIP (especially given their discretionary nature). This analysis still holds where the hypothetical monopolist controlled any combination of magazine titles – a SSNIP in magazines would be defeated by switching to other media sources. Online content is a particular threat, given the ubiquity of internet access – especially among advertisers’ target demographics, younger affluent consumers – with the increasing ability to access websites from devices such as tablets and smartphones. NIMs, newspapers, television and radio are all strong substitutes for consumer attention. Admittedly, there will be some consumers who will not substitute, and some may change buying patterns from weekly or monthly to less regular occasions. However, not all customers need substitute to defeat a price rise, only a significant proportion, as the Commission has previously stated (emphasis added): “Close substitute products on the demand-side are those between which at least a *significant proportion* of buyers would switch when given an incentive to do so by a small change in their relative prices.”⁴⁰ Bauer believes that a sufficient number would switch and that:

- (a) it cannot price discriminate between those who would/would not substitute; and
- (b) those that would substitute are much more likely to be the younger, affluent readers, particularly valued by advertisers, amplifying the ramifications of the circulation loss.

12.28 Accordingly, Bauer considers the appropriate markets to be wider “media content” markets. This equates with a very recent international merger decision regarding magazine publishers (August 2013). Poland’s Office of Competition & Consumer Protection cleared Burda International to purchase Gruner + Jahr Poland on the basis that, even though the purchaser would have almost 60% of cookery magazines in terms of sales, it would face sufficient competition from other sources. Other magazines were cited as alternatives as they include cooking tips and recipe inserts, and magazines were considered to compete with book publishing houses and recipes available on the internet. Further, publishers of cooking content were considered to face insignificant market entry barriers.⁴¹

12.29 While this market definition is broader than that considered by the Commission in the past, in Bauer’s view, to attempt to further segment the market risks missing potentially important drivers of competition for consumer media content. That is not to say that Bauer considers that all kinds of content through all media platforms necessarily offer the same degree of competitive constraint – Bauer recognises that, in differentiated product markets such as this, some competing content sources (for example other magazine titles, websites, NIMs) will be closer competitors than others.

12.30 One way that industry players seek to analyse markets for the purposes of tracking performance is to categorise media revenues by platform: for example magazines, newspapers, television. Attempts are also made to categorise titles by reference to their content or readership. While, for the reasons described above, categories do not equate to markets for the purposes of competition law analysis, viewing magazine titles within such categories can assist the Commission to analyse the different levels of competitive constraints imposed on the various magazine titles, both in terms of other magazine titles and other media.

12.31 There is no precise science to categorisation given the substantial overlap between target groups of readers and the multitude of factors that influence different consumers to consume different content. Indeed, there remains debate within the industry as to the most appropriate categorisation even for magazines alone. However, to assist the Commission’s analysis Bauer sets out below the four categories from the Audit Report in which the parties’ titles overlap and the parties’ titles within those categories. Bauer believes this report is the most comprehensive in terms of the inclusion of magazine titles and though there will inevitably be debate as to the precise delineation of segments, this is the measure that is widely used.⁴² We also show within each of these categories the numerous examples of competing sources of content. The full list

⁴⁰ Decision 620.

⁴¹ http://www.uokik.gov.pl/news.php?news_id=10525.

⁴² These categories are used by the two main magazine distributors Netlink and Gordon & Gotch, and Aztec, who are the supermarket scan data providers.

of the parties' titles according to their Audit Report categorisations, along with a brief description of each, is set out in Schedule 3.

(a) **Mass market weeklies:**

- (i) **Bauer:** New Zealand Woman's Day, New Weekly (Bauer Australia), Lucky Break, OK! (Bauer Australia);
- (ii) **APNSP** (titles to be acquired): New Zealand Woman's Weekly, New Zealand Listener;
- (iii) **APNSP** (titles to be retained): New Idea, That's Life!, CanvasMagazine, TimeOut, Weekend;
- (iv) **Fairfax:** TV Guide, Sunday, Your Weekend;
- (v) **Other publishers' magazines:** Who, Famous, HELLO!, Time, Chat, Pick Me Up!, Woman's Own;
- (vi) **Websites:** nzherald.co.nz (APN NZ), stuff.co.nz (Fairfax), TVNZ and TV3 celebrity news website content, MSN, Yahoo, PerezHilton.com, celebrity-gossip.net, thehollywoodgossip.com, tmz.com etc;
- (vii) **Overseas magazine websites:** such as hellomagazine.com, okmagazine.com, people.com, usmagazine.com, intouchweekly.com;
- (viii) **Smartphone apps and magazines:** such as Pinterest, Time Out, Now Magazine;
- (ix) **Television:** including E!, MTV, C4, The Box, The Graham Norton Show, The Soup, Chelsea Lately, Ellen; Fashion Police, Entertainment Tonight.

(b) **Women's interest**

- (i) **Bauer:** Australian Woman's Weekly (NZ edition), NEXT, CLEO, Cosmopolitan (Bauer Australia), Good Health Choices, Fashion Quarterly, Harpers Bazaar (Bauer Australia), Shop Til You Drop (Bauer Australia);
- (ii) **APNSP** (titles to be acquired): Simply You;
- (iii) **APNSP** (titles to be retained): VIVA;
- (iv) **Fairfax:** NZ Life & Leisure;
- (v) **Other publishers' magazines:** Mindfood, Vogue Australia, Marie Claire, M2Woman, Parenting Magazine, Instyle, Women's Health Australia, Frankie, Bride & Groom Magazine, (a full list of audited titles (which does not capture all available titles) is set out in the Audit Report⁴³);
- (vi) **Websites:** nzherald.co.nz (APN NZ), stuff.co.nz (Fairfax), fashionz.co.nz, New Zealand fashion bloggers such as Joanne Faith, Youtube fashion shows such as Hellostyle, drphil.com, oprah.com, annabel-langbein.com/cooking/recipes/, bakingequalslove.com;
- (vii) **Online NZ magazines:** such as Chelsey and Gloss;

⁴³ Confidential Annex 2.

- (viii) **Overseas magazine websites:** such as fashion.telegraph.co.uk, nytimes.com/pages/fashion/index.html, glamourmagazine.co.uk, vogue.co.uk;
 - (ix) **Smartphone apps and magazines:** such as Kaleidoscope, Glamour Magazine, O the Oprah Magazine, Elle;
 - (x) **Television:** a range of channels and programmes including Fashion TV, The Living Channel, Good Morning, Project Runway, The Shopping Channel; Extreme Makeover, Gok's Fashion Fix, Tim Gunn's Guide to Style.
- (c) **Home & Gardening**
- (i) **Bauer:** Your Home & Garden, HOME, Australian House & Garden (Bauer Australia), Belle (Bauer Australia);
 - (ii) **APNSP** (titles to be acquired): Simply You Living;
 - (iii) **APNSP** (titles to be retained): Element;
 - (iv) **Fairfax:** NZ House & Garden, New Zealand Gardener, NZ Lifestyle Block;
 - (v) **Other publishers' magazines:** Including Homestyle, Good, Houses New Zealand, Better Homes & Gardens and Inside Out and their associated websites: <http://www.homestyle.co.nz/>, <http://nz.lifestyle.yahoo.com/better-homes-gardens/>, <http://good.net.nz/> <http://www.homelife.com.au/magazine/inside+out/> (a full list of titles is set out in the Audit Report⁴⁴);
 - (vi) **Websites:** including Gogardening.co.nz, styleathome.com, interiordesignonline.co.nz;
 - (vii) **Online NZ magazines:** Sweet Living, Get Growing;
 - (viii) **Overseas magazine websites:** gardeningaustralia.com.au, housetohome.co.uk, elledcoration.co.uk;
 - (ix) **Smartphone apps and magazines:** such as various Martha Stuart magazines, iScape, Pinterest;
 - (x) **Television:** a range of channels and programmes including The Living Channel, My House My Castle, Extreme Makeover Home Edition, Country House Rescue, Relocation Relocation, Gardeners' World, Gardening Australia, The Block, Mitre 10 Dream Home.
- (d) **Youth interest**
- (i) **Bauer:** Dolly (Bauer Australia);
 - (ii) **APNSP** (titles to be acquired): Crème;
 - (iii) **APNSP** (titles to be retained): Girlfriend;
 - (iv) **Other publishers' magazines:** K-Zone, Total Girl, Little Angel, Moshi Monsters, Girl Power, Mania, D Mag, Teen Now, Nylon;

⁴⁴ Confidential Annex 2.

- (v) **Websites:** PerezHilton.com, reddit.com, teen.com, popcrush.com, nzgirl.co.nz;
- (vi) **Overseas magazine websites:** seventeen.com; teenvogue.com, m-magazine.com, j-14.com, twistmagazine.com, girlslife.com;
- (vii) **Smartphone apps and magazines:** Style Me Girl, Pinterest, Seventeen Magazine and Popstar! Magazine;
- (viii) **Television:** a range of channels and programmes including E!, MTV, C4, Four, Disney Channel, X Factor, Keeping up with the Kardashians, The Hills, Sticky TV, Chasing the Saturdays and Entertainment Tonight.

Geographic market

12.32 Content and advertiser markets are both national in scope. Advertisers who advertise in the parties' magazines generally want to reach customers nationally, while the kind of content in the parties' magazines is also directed at a national audience (there are some exceptions such as Metro which is Auckland-centric and some of the NIMs which are limited to the geographic circulation of the relevant newspaper, though some content of which is available online, such as VIVA).

12.33 In summary, in respect of both content and advertising, Bauer competes against a range of other media platforms, as well as competing magazines, to secure readers, and advertisers. Accordingly, it is not appropriate to define a "magazine" or print publishing market, nor is it appropriate to define narrower market segments. That said, to assist the Commission's review, Bauer provides information below on:

- (a) magazines within the overall media market;
- (b) the merging parties within the overall magazine category; and
- (c) various categories of magazines that the parties' titles fall within, along with other media content within these categories.

Related activities

12.34 For completeness, the parties are both active in purchasing content from third parties (including images, freelancer articles, overseas content, etc) and licensing titles from third parties (APNSP's New Idea, That's Life! and Girlfriend are licensed from Pacific Magazines in Australia). Bauer also produces KiaOra for Air New Zealand and Little Treasures for SCA Hygiene Australasia. Bauer does not believe that the Proposed Acquisition raises any competition concerns in respect of these activities and does not consider them further below.

13. Product differentiation

13.1 As described above, the products are differentiated within the relevant markets, both on the advertising side and the consumer content side.

VERTICAL INTEGRATION

14. Vertical integration

14.1 The transaction does not result in any new vertical integration. While Bauer owns a magazine distributor, APNSP has a long-term contract with Gordon & Gotch for its magazine distribution, although Bauer will investigate bringing this distribution in-house, depending on contractual and commercial considerations.

Part 4: Counterfactual

15. Relevant counterfactual

15.1 [CONFIDENTIAL]

15.2 Bauer believes that APNSP would continue to operate the business but with limited investment in magazines resulting in a continuation of the steady decline of the competitiveness of the magazine titles operated by APNSP.

Part 5: Competition Analysis

EXISTING COMPETITORS

- 16. Existing competitors
- 17. Market shares
- 18. Sources of market share estimates

Advertising

- 18.1 The ASA figures on advertising revenue are a good reference point for estimated advertising market shares:

	Revenue (2012) (m)	Share
Newspapers	\$540	24.9%
Television	\$614	28.4%
Online ('Interactive')	\$366	16.9%
Radio	\$248	11.5%
Magazines	\$210	9.7%
Outdoor	\$67	3.1%
Unaddressed mail	\$54	2.5%
Addressed mail	\$58	2.7%
Cinema	\$7	0.3%
Total market	\$2,164	100%

ASA market share figures – see notes at <http://www.asa.co.nz/stats.php>

- 18.2 Within magazines, Bauer estimates advertising shares to be as follows:

	Pre-acquisition share	Post-acquisition share
Bauer	[]%	[]%
Fairfax Total	[]%	[]%
APNSP	[]%	[]%
Other Publishers	[]%	[]%
Total Magazine platform	100%	100%

[CONFIDENTIAL]

- 18.3 As a result of this transaction, Bauer’s market share will increase from around [CONFIDENTIAL]% to around [CONFIDENTIAL]% of the total advertising market, or [CONFIDENTIAL]% to [CONFIDENTIAL]% in the magazine category.
- 18.4 APN NZ will remain active in the magazine category with its NIMs and Pacific titles, and more generally, in the advertising category through its newspaper and online interests. Even taking the magazine category alone, a [CONFIDENTIAL]% increase in market share to a total of [CONFIDENTIAL]% should not raise competition concerns, particularly given that Fairfax will remain as a strong competitor alongside Tangible, APN NZ’s NIMs and Pacific titles, and a wealth of smaller publishers.
- 18.5 As set out below, advertisers have a range of alternative options for their advertising spend, both publishers specialising in magazines and media companies offering integrated solutions for advertisers across various media platforms.

APN NZ

- 18.6 Alongside the magazine titles discussed above, APN NZ offers advertisers a range of tools, such as its “Audience Finder”, which allows advertisers to determine the most appropriate advertising avenues across APN NZ’s magazine, NIM, digital and newspaper offerings. Advertisers can choose according to desired platform (with the ability to select all platforms), demographic and focus environments.⁴⁵
- 18.7 Post-acquisition, APN NZ’s media platforms will include:
- (a) newspapers (twenty daily and more than one hundred non-daily newspapers across Australia and New Zealand and is the leading newspaper publisher in New Zealand, with the New Zealand Herald (which across print and online reaches 1.4 million New Zealanders every week and has shown double digit growth over the last five years))⁴⁶ ;
 - (b) magazines (including NIMs) (New Idea, That’s Life!, Girlfriend, CanvasMagazine, VIVA, TimeOut, Living, Bite, Element, Travel, Driven, The Business, SuperSport, Outdoors, Weekend, HeraldHomes, Commercial Property, Herald on Sunday Homes, and YOURS – The Farmer’s Magazine);
 - (c) radio (APN NZ has a 50% interest in “three of the top five national radio networks with NewsTalk ZB, Classic Hits and Coast as well as four additional major networks... Over 1.3 million New Zealanders tune in to [their] stations...”⁴⁷; and

⁴⁵ <http://www.apn.co.nz/audience/>.

⁴⁶ <http://www.apn.com.au/new-zealand-publishing/>.

⁴⁷ <http://www.apn.com.au/radio/>.

- (d) online (APN NZ has market leading online sites such as the New Zealand Herald Online and GrabOne, along with other radio and news branded web and mobile sites).

Fairfax

- 18.8 The Fairfax Media Network team works in partnership with advertisers to “determine the best approach, developing integrated communications solutions across [their] portfolio; from [their] mass national coverage and footprint, to niche and/or regional audiences.”⁴⁸ According to Fairfax Media, this portfolio includes “the largest integrated metropolitan, rural and regional, magazine and digital media company in Australasia.”⁴⁹
- 18.9 Fairfax Media has over 21 different businesses based in New Zealand alone, including magazines, NIMs, community, regional and national newspapers, digital, print and distribution. Fairfax Media has: over 25 magazines, including the Sunday and Your Weekend NIMs; two national, nine daily and more than 60 community newspapers; and a range of high profile websites, including www.stuff.co.nz, parenting website Essential Mums, as well as websites for its newspaper and magazine properties. Fairfax’s magazines alone reach over 1.9 million people aged 10 and over.⁵⁰ Fairfax’s focus on its Sunday NIM is evident in a recent job advertisement where it openly described Sunday as “its flagship glossy Sunday Magazine” and noted it was a “fantastic opportunity for an experienced journalist with a deep love of lifestyle features to guide a highly prized magazine with a loyal, New Zealand-wide audience.”⁵¹ Fairfax states it is committed to “offering the best content to our readers, regardless of whether they choose to read it in print, online, on their tablets or smartphones...”⁵²

TVNZ

- 18.10 TVNZ provides consumers with high quality television content across multiple platforms and advertisers the opportunity to connect with consumers across each of those platforms. It operates six channels, TV ONE, TV2, TV ONE plus 1, TV2+1, TVNZ Heartland and TVNZ Kidzone24 (the latter two of which are broadcast on Pay TV platforms SKY and Igloo), in addition to the video content site TVNZ Ondemand, and news website onews.co.nz.⁵³

MediaWorks

- 18.11 MediaWorks’ offers advertising solutions across its portfolio, consisting of television radio and online assets. It has television stations (TV3, FOUR) and radio stations, both regional (such as Mai FM in Auckland, Northland and Rotorua) and national (such as MORE FM, The Edge, The Breeze and The Rock) stations, with its radio platform reaching half of New Zealand’s commercial radio audience.⁵⁴ MediaWorks also has an ‘Interactive’ division, with 18 websites (including 3news.co.nz, tv3.co.nz, theedge.co.nz) and a mobile network (including smartphone apps which allow consumers to listen to radio, catch up on latest news articles, watch television clips, see television listings for TV3 & FOUR as well as check the weather forecast).

SKY Television

- 18.12 SKY Television offers advertising opportunities across its various subscription television channels (such as SKY Sports, SKY Movies, E! and The Living Channel), free-to-air Prime TV and SKYWATCH magazine. SKY’s digital platform ensures a wide variety of channel offerings to appeal to different people, from Sport and Movies to Documentary, News, Lifestyle and

⁴⁸ <http://www.fairfaxmedia.co.nz/ad-centre/advertising-with-fairfax.dot>.

⁴⁹ <http://www.fairfaxmedia.co.nz/about-us/>.

⁵⁰ <http://www.fairfaxmedia.co.nz/ad-centre/advertise-in-magazines.dot>.

⁵¹ <http://www.seek.co.nz/job/25475216>.

⁵² <http://www.fairfaxmedia.co.nz/ad-centre/advertising-with-fairfax.dot>.

⁵³ <http://tvnz.co.nz/tvz-corporate-comms/tvz-4880728>.

⁵⁴ http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=10892209.

Children's as well as General Entertainment channels. Advertisers can tightly define their target and advertise in a chosen environment without wastage.⁵⁵

Tangible

18.13 Tangible Media offers advertising across its specialist magazines, including Dish, Good, Habitat, NZ Rugby World, NZ Fishing World, Idealog, NZ Marketing, New Zealand Weddings, and NZ Retail, along with their respective digital properties and numerous events. Tangible Media is part of Image Centre Group, a communications business with over 150 staff. Its capability runs across content creation, publishing, digital media, print, outdoor, video production, retail agency and digital signage.

Summary

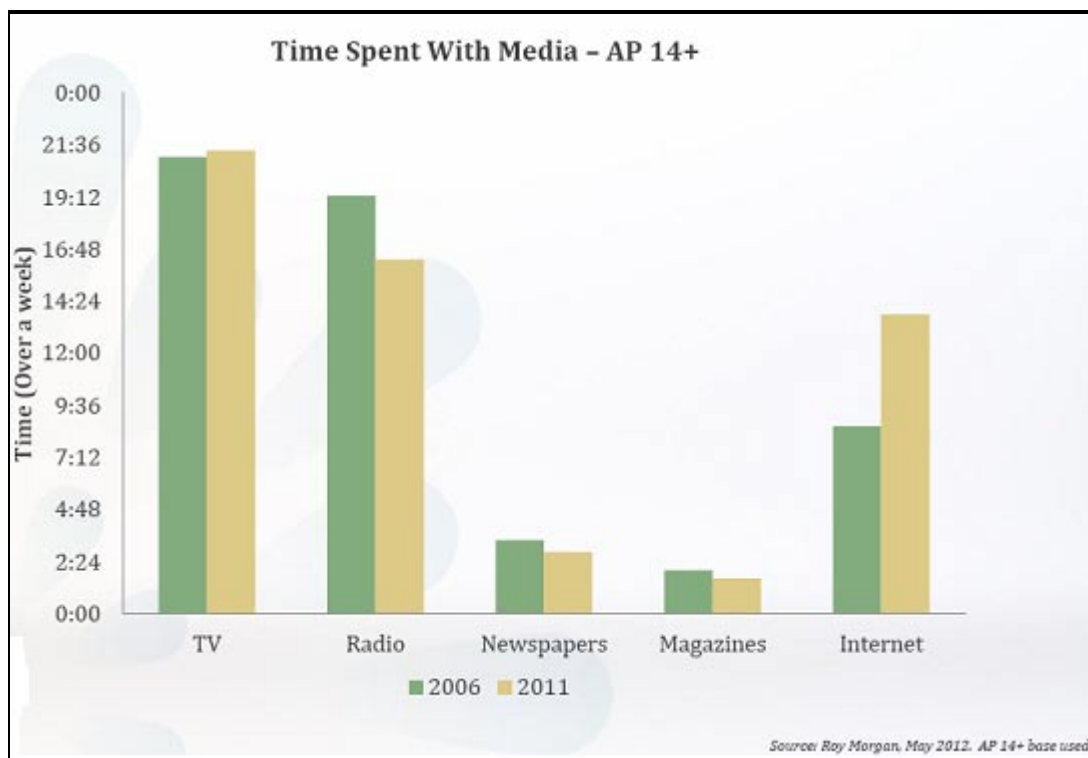
18.14 Given these competitive constraints, should Bauer attempt to increase advertising prices in any of its existing or newly acquired titles, advertisers would or would credibly threaten to switch a significant proportion of their advertising budgets away from Bauer to other magazines and/or other media.

18.15 Accordingly, Bauer will not have scope to exercise market power in the advertising market, even in respect of what might be considered to be closely competing magazine titles.

Content

18.16 As described in the market definition section, media content is highly differentiated with a wide range of content accessible to consumers through a variety of platforms. Below we provide a snapshot of where the various media platforms sit compared to one another, before analysing the specific magazine titles affected by the transaction and the competing content.

18.17 The following chart shows time spent with each medium, which gives an indication of content market share by medium. It also shows graphically the strong growth of internet use.



⁵⁵ <http://www.skytv.co.nz/Default.aspx?tabid=161>.

18.18 As the chart demonstrates, magazines achieve a lower level of use time compared to the other main media platforms and this has decreased over time.

18.19 Limiting the analysis to magazines alone, the following tables set out shares across the print categories described in the industry overview section above in which the parties' titles overlap.

Category shares				
	Circulation ⁵⁶		Readership ⁵⁷	
	Pre acquisition	Post acquisition	Pre acquisition	Post acquisition
Mass market weeklies				
Bauer	[]%	[]%	[]%	[]%
APN NZ	[]%	[]%	[]%	[]%
Fairfax	[]%	[]%	[]%	[]%
Others	[]%	[]%	[]%	[]%
Women's interest				
Bauer	[]%	[]%	[]%	[]%
APN NZ	[]%	[]%	[]%	[]%
Fairfax	[]%	[]%	[]%	[]%
McHugh Media	[]%	[]%	[]%	[]%
M2	[]%	[]%	[]%	[]%
Others	[]%	[]%	[]%	[]%
Home & Gardening				
Bauer	[]%	[]%	[]%	[]%
APN NZ	[]%	[]%	[]%	[]%
Fairfax	[]%	[]%	[]%	[]%
Others	[]%	[]%	[]%	[]%
Youth interest				
Bauer	[]%	[]%	[]%	[]%
APN NZ	[]%	[]%	[]%	[]%
Pacific Magazines	[]%	[]%	[]%	[]%

⁵⁶ Circulation is as per the Audit Report July 2012 – June 2013 (confidential Annex 2). NIMs were added to each of these categories as appropriate, i.e.: in Mass market weeklies: CanvasMagazine, Sunday, Your Weekend, TimeOut, Weekend and Living/View; in Women's interest: VIVA; and in Home & Gardening: Element. As circulation of particular NIMs is not measured, the circulation of the host newspaper was used. A number of popular titles in these categories are not measured in the Audit Report, such as Time, HELLO!, Elle, Vanity Fair, Nylon, Teen Now, Habitat and Weekend Gardener and therefore the above figures are conservative.

⁵⁷ Readership is as per Nielsen Consumer & Media Insights data July 2012 – June 2013. Readership shares include NIMs (measured independently of host newspaper readership). M2Woman (a New Zealand title) does not have readership measured so a conservative estimate of [CONFIDENTIAL] readers per copy was used (titles with similar circulation Fashion Quarterly and Good Health have 10.76 and 11.09 readers per copy respectively). The readership of the majority of Australian magazines circulated in New Zealand is not measured. Accordingly, readership was conservatively estimated at [CONFIDENTIAL] readers per copy. The market shares exclude some publications for which statistics are unavailable, including Habitat, HELLO!, Elle, Vanity Fair, Nylon, Teen Now, World Magazine and Weekend Gardener, and do not include content from other media platforms. For these reasons the market share measures are conservative and likely to overstate the parties' market shares.

NextMedia	[]%	[]%	[]%	[]%
Other	[]%	[]%	[]%	[]%

18.20 The constraint from other media platforms is not reflected in the above shares. Even so, and even if magazines are further sub-divided into various segments, the above shares do not reveal a competition issue in relation to content.

18.21 In light of the fact that the popularity of magazines (including mass market weeklies) is waning,⁵⁸ should Bauer significantly raise the price of a title post-acquisition it will hasten that decline (with a consequent impact on circulation and hence advertising revenue). While some consumers might switch to a competing Bauer title, a significant number of consumers would take one or more of the following actions, which would result in a significant drop in circulation (in turn reducing advertising revenue).

- (a) Switch to other magazine titles with similar content. While Bauer will own a number of women’s interest and mass market weekly titles, there will remain a large number of competing titles both from New Zealand and overseas, including:
- (i) equivalent celebrity news content in New Idea, the TV Guide, TimeOut, Living, CanvasMagazine, Sunday, and international celebrity news titles sold in New Zealand such as Famous, HELLO! and Who;
 - (ii) equivalent fashion content in publications such as CanvasMagazine, VIVA, Sunday, Marie Claire, Mindfood, InStyle, Vogue Australia, Frankie, Elle, The Denizen, M2Woman and Shop Til You Drop;
 - (iii) equivalent current affairs content in newspapers, particularly Weekend and Sunday papers, other New Zealand titles including Idealog and Unlimited, in addition to a number of international magazines such as Time, The Economist and The Wall Street Journal;
 - (iv) equivalent human interest content can be found in weekly titles such as That’s Life!, Chat and Pick Me Up!, and to some degree in magazines such as Who; and
 - (v) puzzles and quizzes can be found in That’s Life!, newspapers, NIMs; dedicated puzzle books (e.g. Sudoku Genius, Giant Crosswords, Word Search Puzzles, The Bumper Book of Word Games and Puzzles among many others); dedicated puzzle magazines (e.g. Word Hunt, Code Crackers and Colossus Crosswords) and numerous other titles that contain crosswords, Sudoku and other puzzles, such as Who, Famous, the TV Guide and Readers Digest (NZ).
- (b) Reduce purchase frequency and obtain the same content online. The multitude of websites and smartphone/tablet apps that are available with content equivalent to that provided in traditional magazines are described above. Even traditional barriers to consumers accessing such content online, such as the desire for mobility (i.e. the portability of magazines, compared to the immobility of desktop computers) are being broken down by technological developments such as tablets, smartphones and improved mobile networks allowing increasing numbers of consumers to access such content virtually anywhere.

⁵⁸ Indeed the July 2012 – June 2013 Audit Report (confidential Annex 2) [CONFIDENTIAL].

- (c) Reduce purchase frequency and read a shared copy out of the home (e.g. cafes or loaned from friends or family). Many of Bauer's titles have readership figures greatly exceeding net circulation figures, reflecting this dynamic.

18.22 Of course, the actions above assume that there is no change in the availability or positioning of competing magazines. However, as described below in the new entry section, there are numerous ways in which competing publishers could attack the Bauer titles in the event of a price increase, including launching new magazines (including brand extensions of existing established titles), importing (or increasing marketing of) equivalent overseas magazines or repositioning existing titles to more closely compete with the Bauer titles. Such actions would further encourage readers to switch away from Bauer titles and would therefore exacerbate Bauer's circulation loss resulting from the price increase.

18.23 Furthermore, as described above, the reduced circulation which would accompany any price increase would in turn reduce advertising appeal, and thus revenues. This loss of circulation volume would remain a significant barrier to Bauer increasing prices of magazine titles or otherwise lessening its competitive effort.

POTENTIAL COMPETITION

23.1 There are various ways that a firm could enter or expand in the magazine category (even putting aside entry and expansion in the wider advertising media and content markets – the conditions of entry in the digital sphere are exceptionally low). Options for magazine entry would include:

- (a) "de novo" entry – a new publisher establishing a new magazine title (including NIMs);
- (b) an existing publisher, such as Fairfax, APN NZ, or Tangible, establishing a new title, licensing an existing title from overseas or establishing a "one shot" or brand extension to an existing title that covers different content and targets a larger or different audience;
- (c) an existing publisher repositioning an existing title to cover different content and attract more or different readers; or
- (d) publishers of international magazines exporting these magazines to New Zealand.

23.2 There is evidence of each of these types of entry or expansion in the market, which are described following the discussion of entry conditions below.

Entry conditions

23.3 As set out above, the requirements for producing a magazine are:

- (a) content – which can be produced by the magazine or purchased and can include interviews, stories, photos, puzzles/quizzes;
- (b) printing and distribution;
- (c) advertisers (although in theory at least it is possible to produce a magazine solely on the basis of circulation income); and
- (d) promotion in order to gain readers.

23.4 There are no major regulatory hurdles in establishing a magazine. Bauer estimates a magazine could be launched within a six month timeframe, with total first year operating costs of less than \$400,000 (although only a portion of this would be required "upfront"). The key to starting a new magazine is having an attractive concept, to attract readers and therefore advertisers. If a new

entrant has an attractive concept, it could well be making a profit within its first year of publishing.

De Novo entry

- 23.5 As described above, establishing a new magazine is relatively low cost and is likely in the event that existing publishers are seen to be making super-normal profits. An example of a new entrant in the magazine industry is Mindfood, published by McHugh Media. Mindfood launched in March 2008 and now has circulation of 36,030 copies⁵⁹ (more than many of the major Bauer, APNSP and Fairfax titles). Mindfood is combined with a website, 'app' and email offering. McHugh Media claims: "*mindfood.com* attracts more than 106,368 visits each month, receives more than 357,000 page impressions and delivers more than 277,588 email newsletters every week."⁶⁰ The Mindfood 'app', launched in August 2012 and gained a place on Apple's "App Store Best of 2012" list shortly after.⁶¹
- 23.6 Mindfood offers a wealth of content that is very similar to that provided by existing Bauer and APNSP titles. It describes its core editorial platforms as: "Health, Self, Food, Travel, Community, Environment, Culture, News, Fashion, Beauty, Style and Technology [which] can be accessed online and through the pages of the magazine". It is a classic example of the ability of new entrants to take advantage of a perceived opportunity.
- 23.7 Healthy Food Guide, produced by Healthy Life Media, is another example of an independent entrant which has gained substantial circulation levels (44,205 copies),⁶² exceeding both Cuisine (Fairfax) and Taste (Bauer).⁶³

Existing publisher establishing a new title

- 23.8 There are various examples of existing publishers establishing new titles in the market place, licensing overseas titles, or establishing "off-shoot" titles:
- (a) As discussed above, APNSP currently licenses three titles, New Idea, That's Life! and Girlfriend from Pacific Magazines in Australia.
 - (b) On the back of the Simply You title (focussing on fashion and beauty content), publisher Paula Ryan launched Simply You Living in 2005, focussing on home decor and lifestyle. APNSP purchased these titles in 2007 and Simply You Living has gained a circulation of 16,052, more than half of Simply You's circulation of 28,211.
 - (c) On the back of its Fashion Quarterly title, Bauer launched FQ Entertaining, expanding Fashion Quarterly's traditional focus on fashion into home and food, and FQ Occasions, focussing on weddings and other events.
 - (d) Bauer launched Good Health in July 2010 for a cost of approximately **[\$CONFIDENTIAL]**. Bauer repositioned this title in September 2013 to a lower cost model to increase profitability and circulation.
- 23.9 There are a number of smaller New Zealand publishers which could expand. For example, AGM Publishing which produces Urbis, Houses New Zealand, Architecture NZ and Landscape Architecture NZ. The Pluto Group's Homestyle magazine has increased its average net circulation by **[CONFIDENTIAL]**% in the previous year, substantially more than Bauer's equivalent titles. It now has circulation of 15,659.

⁵⁹ Netlink Magazine Audit Report July 2012 – June 2013 (confidential Annex 2).

⁶⁰ See <http://www.mindfood.com/pg-about-mindfood.seo>.

⁶¹ <http://www.stoppress.co.nz/blog/2013/01/mindfood>.

⁶² Netlink Magazine Audit Report July 2012 – June 2013 (confidential Annex 2).

⁶³ Netlink Magazine Audit Report July 2012 – June 2013 (confidential Annex 2).

Existing publisher repositioning an existing title

23.10 Publishers can also reposition titles by changing format, frequency or editorial content in order to more closely compete with another publisher's title. It may do this, for example, if it wanted to target another title that was achieving better circulation or revenue, or to target a more desirable demographic. Changes can be made to the masthead, format, editorial content and page design, along with the marketing strategy. For example, Bauer repositioned NEXT Magazine in March 2012 to a more premium offering, focusing on fresh perspectives and new thinking.

23.11 Indeed, in Decision 395, the Commission found (in respect of boating and fishing magazines):

“Examples [of repositioning/expanding existing titles] such as these suggest that competitive responses to the behaviour of the merged entity, or to market conditions generally, could be effected immediately. The threat of expansion by an existing magazine title or by an incumbent publisher is therefore regarded as an effective constraint upon the attempted exercise of market power by the merged entity.”

23.12 For the reasons set out above, Bauer believes that this conclusion applies equally to the entry/repositioning titles to more closely compete with those of the combined entity.

Imported Magazines

23.13 There are a number of magazines in the New Zealand market that have been imported 'as is' from other countries. Many of these international titles are gaining popularity with consumers. For example:⁶⁴

- (a) "Inside Out" magazine, published in Australia by NewsLifeMedia, with an average net circulation year on year increase in New Zealand of **[CONFIDENTIAL]**%.
- (b) "Frankie" magazine, published in Australia by Morrison Media, with an average net circulation year on year increase in New Zealand of **[CONFIDENTIAL]**%.

Overseas Publishers

23.14 There are a number of publishers operating in Australia and worldwide that could enter the New Zealand market including:

- (a) Pacific Magazines, which is the magazine publishing arm of Seven West Media Limited, Australia's largest diversified media network, which also incorporates Australia's largest television network, the Seven Network. Pacific publishes more than one in four magazines sold in Australia and currently licenses three of its mastheads to APNSP to produce New Zealand versions;
- (b) Haymarket Media Group, a global media company, based in the United Kingdom, with a Australian subsidiary Haymarket Media;
- (c) NewsLifeMedia, a subsidiary of News Corporation which has interests in pay television, newspapers, magazines and online businesses. It has operations in the UK, Australia and the USA;
- (d) a large range of smaller Australian publishers, such as Next Media, Studio Magazines, Express Media Group, and Yaffa;
- (e) Conde Nast, one of the world's leading magazine publishers and based in the United States;

⁶⁴ According to the Netlink Magazine Audit Report, July 2012 to June 2013, see confidential Annex 2. The Percentage change reflects average net-circulation changes of July 12 – Jun 13, in comparison with the Jul 22 – Jun 12 period.

- (f) IPC Media, the UK's leading consumer magazine and digital publisher with titles such as Wallpaper*, Marie-Claire, InStyle, Livingetc, Chat, Woman's Weekly, Woman and Teen Now;
- (g) Immediate Media Company Limited, a combined publishing house, combining the former assets of Origin Publishing, Magicalia and BBC Magazines, publishing 34 websites and 50 magazines;
- (h) Source Interlink Media, a leading special interest magazine publisher in the United States; and
- (i) Dennis Publishing, a UK based publishing company with 70 magazines, digital magazines, websites and mobile sites throughout the world.

23.15 Bauer acknowledges that these firms will only enter/expand in response to incentives. However, it believes the ability for them to enter imposes a meaningful constraint.

Distribution

23.16 Netlink distributes not only Bauer magazines, but provides distribution services for a large number of other magazine publishers, as does Gordon & Gotch. Bauer believes it would not be difficult for a current distributor to expand its business to magazine distribution. For example, Gilmours, Troops Wholesale Limited and Trents Wholesale Limited (Foodstuffs businesses) or DHL, currently provide extensive general distribution solutions. Newspaper publishers also have extensive newspaper distribution networks (to subscribers) which potentially could also expand to distributing magazines.

23.17 **[CONFIDENTIAL]**

COUNTERVAILING POWER OF BUYERS

24. Constraint from buyers

24.1 Advertisers will continue to exercise considerable countervailing power against Bauer post-acquisition. As described above, magazine advertising makes up a small proportion of total advertising spend **[CONFIDENTIAL]**. Advertisers, whether they go direct or through agencies, constantly flex the amount of advertising that they place in each media platform based on the return they expect to get on their advertising spend. If Bauer was to increase magazine advertising prices post-acquisition, advertisers and advertising agencies would be able to "punish" Bauer by:

- (a) flexing sufficient advertising spend (within products or across product portfolios) to other media to defeat any proposed price increase in the manner described above e.g. a 2% increase in television advertising would equate to around a 10% reduction in magazine advertising; or
- (b) committing advertising spend to other publishers' new or repositioned title to encourage the publisher to launch/reposition that title.

24.2 While many advertisers are large enough themselves to exercise significant countervailing power against Bauer, the aggregation of advertising spend through a small group of large advertising agencies means that these agencies exercise substantial countervailing power against media companies in their own right, which they can bring to bear on behalf of the underlying advertising client. Advertising agencies would be in a prime position to flex advertising spend away from magazines in order to keep price increases in check. For example, in response to a price rise an agency could recommend to its clients to move additional magazine advertising online. Bauer believes this would be sufficient to defeat a price increase post-acquisition. An example of an agency pushing back against prices and

threatening to switch to other channels is included as confidential Annex 23, where **[CONFIDENTIAL]**.

- 24.3 On the retail side, more than 55% of Bauer's magazine sales are made through supermarkets. As with other suppliers to the supermarkets, magazine publishers face major countervailing power. In the event that Bauer sought to put prices up to supermarkets, Bauer would expect that supermarkets would put in place a range of sanctions (or threaten to do so), including some or all of the following:
- (a) remove shelf space or give less prominence to Bauer's magazine titles (including sought after retail point of sale/checkout space, important for magazine sales);
 - (b) refuse to stock lower selling titles; or
 - (c) engage in more promotion of competitors' titles.

25. Top five buyers

- 25.1 Please see attached for top five retailers', top five advertisers' and top five advertising agencies' contact details.

COORDINATED MARKET POWER

26. Characteristics of the market post-merger facilitating/impeding competition

- 26.1 None of the relevant markets highlighted above show signs of co-ordinated conduct today and, more importantly, the acquisition does not remove any unique factors preventing co-ordination today, nor would it lead to the emergence of a new factor which would provide an incentive for co-ordination in the future.
- 26.2 In particular, the lack of product homogeneity among magazines themselves, as well as with other media platforms, would make coordination most unlikely. Nor are prices transparent. While ratecard information is publicly available, competition results in pricing well below this level. It is unheard of for any advertiser to actually pay ratecard (a figure that is determined from a multitude of factors including legacy, what the competition is doing, target demographic, rather than any particular formula). **[CONFIDENTIAL]**

EFFICIENCIES

27. Efficiencies from the merger

- 27.1 On top of the normal cost synergies in removing duplicated functions across Bauer and APNSP, including management and back office functions, there are expected savings in regard to the increased scale including marketing, contributor costs, procurement savings in relation to scan and other marketing data and software licensing, and reductions to other operating costs.
- 27.2 Given the remaining competition in the market and the variable cost nature of many of these synergies, end-users (on the advertising and consumer sides) will benefit directly.

OTHER FACTORS

28. Other relevant factors

- 28.1 Not applicable.

Part 6: Further Information and Supporting Documentation

29. Potentially interested parties

Contact details of relevant competitors, advertisers, advertising agencies and retailers are set out below.

	NAME OF COMPANY	CONTACT DETAILS	RELEVANT CONTACT PERSON
	BOTH LEGAL AND TRADING NAMES	POSTAL AND PHYSICAL ADDRESS, TELEPHONE AND FAX, WEBSITE	NAME, POSITION AND CONTACT DETAILS INCLUDING TELEPHONE PHONE, FAX, EMAIL
ADVERTISERS	[
]
ADVERTISING AGENCIES	[
]
RETAILERS	[
]
COMPETITORS	SKY	10 Panorama Road Mt Wellington Auckland 1060 New Zealand PO Box 9059 Newmarket Auckland http://www.skytv.co.nz/	[
	Fairfax	2 Hereford Street Freemans Bay Auckland 1010, New Zealand PO Box 90741 Victoria Street West Auckland 1142 http://www.fairfaxmedia.co.nz/	
	TVNZ	TVNZ Television Centre 100 Victoria Street West Auckland PO Box 3819	

		Auckland http://tvnz.co.nz/	
	APN NZ	46 Albert Street Auckland 1010 PO Box 32 Shortland Street Auckland 1140 http://www.apn.co.nz/	
	MediaWorks	3 Flower St Eden Terrace Auckland Private Bag 92624 Symonds St Auckland 1150 http://www.mediaworks.co.nz/	
	Tangible	19 Lyon Ave Mt Albert Auckland 1025 PO Box 78070 Auckland 1245 http://www.tangiblemedia.co.nz/	1

30. **Annual reports**

Audited financial statements for ACP Media (now Bauer Media) for the six months ending 31 December 2012 are set out in confidential Annex 24. APN NZ's most recent Annual Report is set out in Annex 25.

Part 7: Confidentiality

31. Confidentiality

- 31.1 Confidentiality is sought in respect of the information in this application that is contained in bold square brackets, i.e., [].
- 31.2 Confidentiality is sought for the purposes of section 9(2)(b) of the Official Information Act 1982 on the grounds that:
- (a) the information is commercially sensitive and contains valuable information which is confidential to Bauer and/or APN SP; and
 - (b) disclosure would be likely unreasonably to prejudice the commercial position of Bauer and/or APN SP, as the party providing the information.
- 31.3 Bauer requests that it is notified of any request made to the Commission under the Official Information Act 1982 for confidential information, and that the Commission seeks its views as to whether the information remains confidential and commercially sensitive at the time those requests are being considered.
- 31.4 The foregoing applies equally in respect of any additional information provided to the Commission that is expressed to be confidential.

PUBLIC VERSION

THIS NOTICE is given by:

Paul Dykzeul, Bauer Media Group (NZ) LP

I hereby confirm that:

- all information specified by the Commission has been supplied;
- if information has not been supplied, reasons have been included as to why the information has not been supplied;
- all information known to the applicant(s) which is relevant to the consideration of this application/notice has been supplied; and
- all information supplied is correct as at the date of this application/notice.

I undertake to advise the Commission immediately of any material change in circumstances relating to the application/notice.

Dated this day of 2013

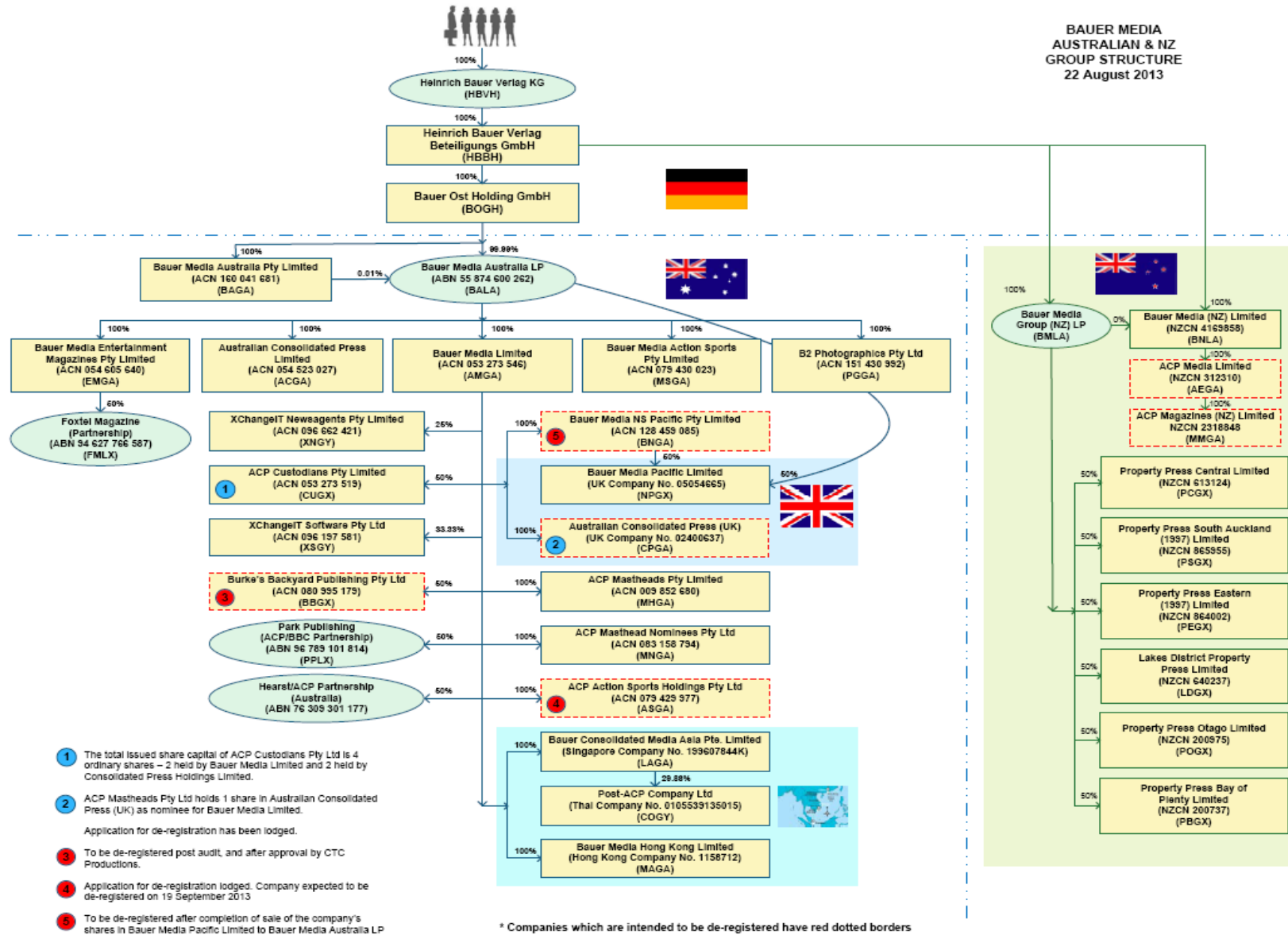
Chief Executive Officer

I am an officer of the company and am duly authorised to make this application/notice.

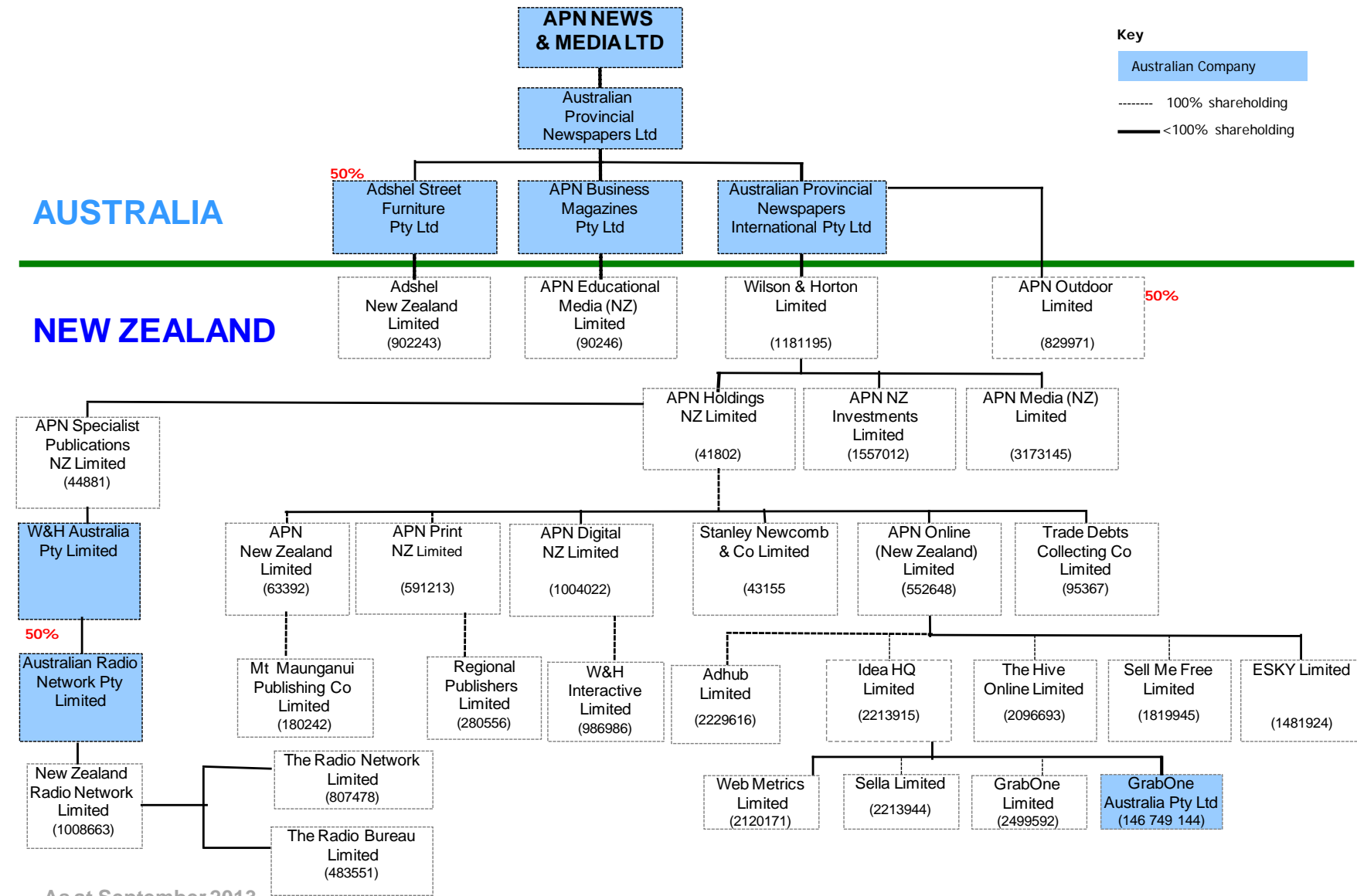
WARNING

IT IS AN OFFENCE TO ATTEMPT TO DECEIVE OR KNOWINGLY MISLEAD THE COMMISSION IN RESPECT OF ANY MATTER BEFORE THE COMMISSION. ANY PERSON WHO DOES SO IS LIABLE UPON SUMMARY CONVICTION TO A FINE OF UP TO \$10,000 (FOR AN INDIVIDUAL) OR \$30,000 (FOR A BODY CORPORATE). REFER TO SECTIONS 103(2) AND (4) OF THE ACT.

Schedule 1 – Bauer Group Structure



Schedule 2 – APN News & Media Ltd - New Zealand Group Structure



As at September 2013

Schedule 3 – description of parties’ magazines and categorisation according to the Audit Report.

The following table shows Bauer’s and APNSP’s magazine titles (highlighted titles transferring to Bauer, with grey shading indicating competing titles), with a brief description of each. We have included magazines Bauer imports from Bauer Australia and distributes in New Zealand⁶⁵:

Bauer	APNSP	Fairfax	Selection of others
Mass market weeklies			
<p>Woman’s Day (weekly): Woman’s Day provides content on the latest local and international celebrity news, fashion trends, beauty, health and fitness, home and relationships advice, recipes, puzzles and a lift-out TV listings guide.</p>	<p>New Idea (weekly): focuses on the latest celebrity news and gossip, both local and international, along with real life reads and some health, fashion, beauty and recipe content. (Published under licence from Pacific Magazines)</p>	<p>TV Guide (weekly): is, according to Fairfax, “New Zealand’s biggest selling magazine...From TV listings to what’s hot in TV viewing, celebrity gossip, a 12 page puzzle section and a dedicated Kids’ Club...”</p>	<p>Who (Pacific Magazines) (weekly): calls itself “Australia’s number 1 celebrity magazine”, and it focuses on celebrity news, photos and gossip, along with recipes, style guides, beauty tips, reviews, horoscopes and puzzles.</p>
<p>New Weekly (Bauer Australia) (weekly): focuses on the latest celebrity news and photos, including style and body tips.</p>	<p>New Zealand Woman’s Weekly (weekly): contains a wide variety of news, stories, recipes and helpful hints for the home every week. It focuses on local celebrity and real story interest and home based activities- cooking, baking, craft and puzzles.</p>	<p>Sunday (weekly, NIM): “is a stand-alone magazine in a quality broadsheet with high national penetration through its host, the Sunday Star-Times.” It is designed for Sunday “me-time” and is “a source of new ideas and trends through...features, fashion pages and columns.”</p>	<p>Famous (Pacific Magazines) (weekly): covers the latest celebrity news, and provides advice on fitness, health, fashion and beauty tips.</p>
<p>Lucky Break (weekly): combines the intrigue of real life stories derived from readers’ contributions with the opportunity to win prizes through a 24-page pull-out puzzle book. Lucky Break is now produced by Bauer Australia with</p>	<p>That’s Life! (weekly): provides real life stories, puzzles, prizes, guides on craft and recipes. (Published under licence from Pacific Magazines)</p>	<p>Your Weekend (weekly, NIM): “explores big national issues as well as local stories. Your Weekend also regularly covers Fashion, Beauty, Food, Wine, Home and living,</p>	<p>HELLO! (weekly): contains celebrity news and interviews, along with puzzles, fashion, beauty, recipes, health and horoscopes.</p>

⁶⁵ Does not include, e.g. Bauer’s property or trader magazines as Bauer is not acquiring any such titles from APNSP, or consumer magazines that are outside the relevant categories. Includes APNSP titles subject to acquisition, including those produced under licence from Pacific Magazines. While NIMS are not separately audited, they have been included in the relevant categories, as have some titles imported into New Zealand that are not covered by the Audit Report. Quotes are from <http://www.apn.co.nz/>, <http://www.fairfaxmedia.co.nz/> and other publisher’s websites.

Bauer	APNSP	Fairfax	Selection of others
limited New Zealand content. It is then printed in New Zealand with a small number of New Zealand advertisements added.		Film...Books, Gardening and more.”	
OK! (Bauer Australia) (weekly): takes readers “behind the velvet rope” and inside the lives and homes of their favourite celebrities from Australia and around the world.	New Zealand Listener (weekly): a current affairs and entertainment magazine. It covers politics, economics, culture, cuisine, photography, books, sport and health and nutrition, as well as television and radio programme listings for the main national broadcasters.		Time Magazine (Time Inc) (weekly): is a weekly news magazine which provides international content, as well as particularly targeting the entire South Pacific.
	CanvasMagazine (weekly, NIM): is a “gloss liftout lifestyle magazine, [which] indulges readers with a satisfying blend of features, lifestyle, and a substantial living section devoted to contemporary design, recipes and fashion”.		Woman’s Own (IPC Media) (weekly): updates readers on the “latest exclusive celebrity news, inspiring real life stories and high street fashion trends. Plus food recipes, diet advice, puzzles and exclusive reader offers.”
	Living (weekly, NIM): features lifestyle and travel pages, “book reviews, Savour for cooking and dining out inspiration, mind and body, craft and gardening and DIY environments”. Living also features “the latest showbiz gossip, interviews with our favourite personalities and the low-down on the newest movies, music and television shows to watch out for. A full 7-day digital and free-to-air TV listings and the essential weekend crossword, puzzles and trivia...along with Spy...the best stories from the stars to keep you entertained”.		Pick Me Up! (IPC Media) (weekly): is “packed with real-life and lots of ways to help your budget go further. Whether it’s the best, brightest bargain fashions, the latest money-saving vouchers, cheap and simple recipes or bargain beauty buys, Pick Me Up! is the magazine that will save you money. There’s a whole host of fun and games to be had!”

Bauer	APNSP	Fairfax	Selection of others
	<p>TimeOut (weekly, NIM): gives readers “a vital mix of movies, music and television. It comes with a seven day listings guide to both live entertainment and the small screen along with in-depth entertainment features and reviews of the latest films, albums and games”.</p>		<p>Chat (IPC Media) (weekly): “tells the stories that get everyone talking...Plus, Chat’s pages are bursting with prizes, puzzles, polls, fashion, telly news and gripping crime stories.”</p>
	<p>Weekend (weekly, NIM): “includes a Life section and the popular TimeOut – making it the perfect handbook of ideas, things to do and places to go. The content is designed to connect strongly with readers, and act as inspiration for making the most of the weekend”.</p>		<p>Multiple others e.g. see Audit Report (confidential Annex 2)</p>
Women’s interest			
<p>Australian Women’s Weekly (New Zealand edition) (monthly): contains stories about local and international celebrities and real-life reads, fashion, practical beauty solutions, home design, puzzles and recipes aimed at family meals.</p>	<p>Simply You (bi-annual): follows the season’s hottest trends and key looks from international collections. It contains fashion and beauty advice and is aimed at affluent 40+ New Zealand women.</p>	<p>NZ Life & Leisure (monthly): is, according to Fairfax, “New Zealand’s fastest-growing premium lifestyle magazine...Regular columns keep readers up to date with what’s happening around the country, sustainability issues, advice on health and well-being, what’s new on the internet, fashion and beauty trends and motoring... recipes from Annabel Langbein and travel.”</p>	<p>Mindfood (McHugh Media) (monthly): focuses on the core editorial platforms of Health, Self, Food, Travel, Community, Environment, Culture, News, Fashion, Beauty, Style and Technology, which can be through the magazine or online.</p>
<p>NEXT (monthly): focuses on the portrayal of “real women” and contains a mix of beauty, fashion, home design, health and recipes.</p>	<p>VIVA (weekly, NIM): “is the cultural barometer people turn to first each week to find out what’s hot in fashion, beauty, food, wine and design”. Appearing each Wednesday, “its sophisticated magazine-style format makes it the</p>	<p>World Magazine “celebrates style through a rich mix of content, including exclusive fashion and accessories, travel, and luxury motoring. World Magazine showcases fashion collections from</p>	<p>M2Woman (M2 Magazine Ltd) (bi-monthly): “covers entertainment, fashion and beauty, health and fitness, food and travel, whilst also delving into technology, politics, business and the</p>

Bauer	APNSP	Fairfax	Selection of others
	perfect place to showcase all that's good in fashion, beauty, design, food, wine and the latest lifestyle trends".	the world's leading houses, together with designer jewellery, timepieces and new products from top beauty houses."	successful lives of local and international women alike."
CLEO (monthly): is aimed at young women and contains fashion and make-up tips, celebrities, relationship advice and music news.			Frankie (Morrison Media) (bi-monthly): covers "design, art, photography, fashion, travel, music, craft, interiors and real-life stories."
Cosmopolitan (Bauer Australia) (monthly): contains information on relationships and romance, fashion and beauty, women's health and wellbeing, as well as what's happening in pop culture and entertainment.			Marie Claire (Pacific Magazines) (monthly): aims to be "today's magazine for the fashion minded woman. It reflects all areas of the reader's life, providing the time-pressed woman with a mix of information. Marie Claire remains unsurpassed as the best source for beauty advice."
Good Health Choices (monthly): A guide to healthy living in a positive, practical package.			Women's Health Australia (Pacific Magazines) (monthly): aims to "motivate and educate women to take control of their physical and emotional selves, so that they can live the lives they imagine." It focuses on nutrition, relationships and exercise advice.
Fashion Quarterly (quarterly, plus 2 special issues (FQ Occasions and FQ Entertaining)): is a fashion and beauty guide which showcases the best each season has to offer locally, as well providing practical guidance on how to			Vogue Australia (NewsLifeMedia) (monthly): "provides comprehensive runway coverage of major fashion shows, authoritative reports on seasonal trends, the latest social, celebrity

Bauer	APNSP	Fairfax	Selection of others
make the most of trends in readers' own wardrobes.			and fashion news, and lively, informed takes on fashion and pop culture.”
Harpers Bazaar (Bauer Australia) (monthly): covers celebrity news and fashion. It brings together fashion shoots and the definitive edit on the latest fashion, beauty and lifestyle innovations.			Instyle (Pacific Magazines) (monthly): focuses on the latest trends and fashion in store, along with exclusive celebrity interviews and beauty, health and fashion features.
Shop Til You Drop (Bauer Australia) (monthly): is focussed on shopping smart. It covers fashion, beauty and homewares, providing the ultimate edit on what readers need this minute – mixing high-end fashion with chain-store must-haves; luxury beauty buys with pharmacy products all in one magazine.			Multiple others e.g. see Audit Report (confidential Annex 2)
Home & Gardening			
Your Home and Garden (monthly): offers readers glimpses into New Zealand homes – and tips on how to get the look at home. Every issue includes shopping advice, DIY projects, family food and a bumper garden section.	Simply You Living (bi-annual): focuses on style, with “interior design and fabulous living, inspiring local and international interiors”, entertaining, travel and gift giving.	NZ House & Garden (monthly): “offers readers the chance to step inside a selection of the country's most beautiful homes and gardens, and meet the people who created them.”	Homestyle (The Pluto Group) (bi-monthly): “focuses on real homes and the people behind them...For readers seeking attainable home living ideas and on-trend building, renovating and decorating content, Homestyle is the go-to.”
HOME (bi-monthly): contains the country's most inspiring architecturally designed dwellings, while also showcasing a lavish range of furniture and objects for the home. The magazine	Element (monthly, NIM): “aims to inspire and guide Kiwis to transform New Zealand into the healthiest, most liveable destination on the planet”. Element provides “real insight into local	New Zealand Gardener (monthly): is “the premium publication that Kiwi gardeners turn to each month for information, inspiration and a dash of	Good (Tangible Media) (bi-monthly): is a “magazine about living simply and living well, covering home, style, food, craft,

Bauer	APNSP	Fairfax	Selection of others
also features Green HOME, a guide to eco-friendly living.	and global sustainability, health and business issues”.	indulgence.”	garden, health and beauty.”
<p>Australian House & Garden (Bauer Australia) (monthly): is a home design and decorating magazine, filled each month with gorgeous houses and gardens to delight in, homewares to covet and food to savour. It includes travel ideas, health and beauty news, expert advice and more.</p>		<p>NZ Lifestyle Block (monthly): “cater[s] to all those living or dreaming of living the good life on their own block.”</p>	<p>Houses New Zealand (AGM Publishing) (quarterly): “features inspiring contemporary projects and interiors - with outstanding graphic design, informative reviews, excellent photography, detailed floor plans and product lists.”</p>
<p>Belle (Bauer Australia) (bi-monthly): is committed to great design and great architecture and to portraying the best of Australia and overseas. It aims to provide a seamless expression of taste at the intersection of design, décor, architecture, knowledge and fashionable living.</p>			<p>Better Homes & Gardens (Pacific Magazines) (monthly): “focuses on decorating, building and remodelling, crafts, entertaining, cooking, and gardening. It also has extensive information for women and families.”</p>
			<p>InsideOut (NewsLifeMedia) (bi-monthly): focuses on inspiring homes, design ideas and practical decorating solutions. It covers homewares trends, outdoor spaces, and what's new for the living room, kitchen, bathroom and garden.</p>
			<p>Multiple others e.g. see Audit Report (confidential Annex 2)</p>
Youth interest			

Bauer	APNSP	Fairfax	Selection of others
<p>Dolly (Bauer Australia) (monthly): covers every aspect of a girl's life from fashion, health and beauty to exclusive interviews with celebrities, entertainment and social issues.</p>	<p>Girlfriend (monthly): is aimed at teenage girls and provides content including fashion, beauty, celebrities, true teen stories and advice about life. (Published under licence from Pacific Magazines)</p>	<p>PONIES! (quarterly): is pitched at lovers of ponies, and aims "to attract not only youngsters from rural and equestrian backgrounds, but also young urban consumers who may only have limited access to horses through riding lessons or pony treks."</p>	<p>K-Zone (Pacific Magazines) (monthly): covers the latest in toys, gaming, anime, sport and entertainment.</p>
	<p>Crème (monthly): is aimed at pre-teen and teenage girls and contains advice, fun and inspiration about fashion, friendships and celebrities.</p>		<p>Teen Now (ICP Media) (bi-monthly) is the "must-have magazine for new teen news, celebrity gossip and pictures - plus teenage fashion, TV, film, music, and fun stuff."</p>
			<p>Nylon (Nylon Magazine) (monthly) "with its unique sense of style and a keen pop culture sensibility, Nylon gives today's young woman a modern twist to fashion, beauty, music and more."</p>
			<p>Total Girl (Pacific Magazines) (monthly): provides readers the chance to get the "latest celebrity gossip and fashion tips, test their skills with our quizzes and puzzles, see what's hot with movies and music and be inspired by our campaigns."</p>
			<p>Multiple others e.g. see Audit Report (confidential Annex 2)</p>

PUBLIC VERSION

Schedule 4 – Table of confidential information

To be provided separately.