

NZME and Fairfax's appeal: Will they win? FAQs

2nd article of 3

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The first article can be found [here](#)

Our second article focusses on the impact of the likes of Google which are sucking huge ad revenues away from NZME and Stuff. A key

reason so far why that is not enough to allow the merger to go ahead is that Google is not so much a competitor but rather it largely just resupplies NZME, Stuff and other content. As the High Court said "*Fifteen recyclers of the produce of two producers of news are still only making two views available*". The specialised providers such as *NBR* are niche focussed and thus don't provide enough competition across the board, to take away the anti-competitive aspects of the merger.

We also address the economics of the two sided market, where the market for advertising impacts the eyeball market, and vice versa, where NZME/Stuff are the platform in the middle. The interaction between the advertiser market and the eyeball market also didn't produce enough competitive constraint.

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NZME. stuff

What's this thing called two-sided markets?

In some instances, upstream and downstream markets, such as the ad market and the eyeball market for community newspapers, with the publisher in the middle, are called two-sided markets. In that example, the advertisers and the eye-balls are closely related, as a matter of economics. For example, the more eye-balls reading the paper, the more the advertisers will pay and, as the community papers are free to eyeballs, the revenue comes from advertisers. The same applies to many other media platforms whether or not the eyeballs pay for the service (eg TV1, TV2 and TV3 are two-sided platforms, as are The Herald printed newspaper and the Stuff website).

Those related upstream and downstream markets can impact and constrain each other. But there are limits: for example, the argument that advertisers' needs, driving revenue for Stuff and Herald Online, would force the latter to up the quality of the services to the eyeballs, was rejected.

I expect any appeal to include focus on two-sided markets. It's a big and complicated area in regulatory economics. Media platforms are a classic example.

Another classic example, as the court noted, is the relationship between fees arising out of the relationship between credit / debit /EFTPOS cards, the retailer's bank, the customer's bank and credit / debit card companies. That is getting a lot of focus in other countries with courts and regulatory authorities. It is said for example, that the market power held by banks and credit /debit card companies leads to substantially higher charges for card use paid by retailers such as supermarkets, and ultimately by the retailers' customers.

In the big cases brought for example by the supermarkets in the UK, such two-sided / multi-sided markets are a major issue. It's a big issue here too, and getting attention from Government, including where those bank / credit card charges are not seen by customers (eg in supermarkets, where they are buried in the retail prices but in fact the customer may end up paying part or all of those charges that are argued to be too high).

NZME and Fairfax's appeal:

Will they win?

FAQs

Turning to competitive pressures, won't Google, Facebook, etc provide sufficient competition in the online NZ news market so there is no SLC as to online NZ news?

No, said the court. First, Google and Facebook (and providers such as The Spinoff and AAP News Wire) are collators of NZ news, not NZ news producers and distributors. Their role is quite different from the Stuff and Herald websites. The likes of Google take news from sources such as Stuff and the Herald online, and re-distribute access to it, rather than getting the news in the first place. The High Court said, *"Fifteen recyclers of the product of two producers of news are still only making two views available."* It may be an appeal would address these conclusions; for example, as to whether The Spinoff is a news producer.

But Google is thrashing NZ media by redirecting ad revenue to Google: surely NZME and Fairfax should be able to merge as they wither away with a thousand cuts?

The court didn't address that point so directly, but as is well known, newspapers the world over are losing ad revenues to Google as the first place the eyeballs get to when looking for news, etc. This is a big problem for the papers, by an order of magnitude. But, if fully analysed, it seems the court would not say that is a reason per se to allow the clearance.

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