



Public Competition Assessment

20 February 2007

News Limited – proposed acquisition of Federal Publishing Company Community Media Group

INTRODUCTION

1. On 17 January 2006, the Australian Competition and Consumer Commission (ACCC) announced its decision not to oppose the proposed acquisition of FPC Community Media Group by News Limited (**proposed acquisition**). The ACCC was of the view that the proposed acquisition would not be likely to have the effect of substantially lessening competition in contravention of section 50 of the *Trade Practices Act 1974* (the **Act**).
2. The ACCC formed its view on the basis of the information provided by the merger parties and information arising from its market inquiries. This Public Competition Assessment outlines the basis on which the ACCC has reached its decision on the proposed acquisition, subject to confidentiality considerations.

Public Competition Assessment

3. To provide an enhanced level of transparency and procedural fairness in its decision making process, the ACCC issues a Public Competition Assessment for all transaction proposals where:
 - a merger is rejected;
 - a merger is subject to enforceable undertakings;
 - the merger parties seek such disclosure; or
 - a merger is not opposed but raises important issues that the ACCC considers should be made public.
4. This Public Competition Assessment has been issued because News Limited's proposed acquisition of FPC Community Media Group is considered to raise issues of interest to the public.
5. By issuing Public Competition Assessments, the ACCC aims to provide the market with a better understanding of the ACCC's analysis of various markets and the associated merger and competition issues. It also alerts the market to the

circumstances where the ACCC's assessment of the competition conditions in particular markets is changing, or likely to change, because of developments.

6. Each Public Competition Assessment is specific to the particular transaction under review by the ACCC. While some transaction proposals may involve the same or related markets, it should not be assumed that the analysis and decision outlined in one Public Competition Assessment will be conclusive of the ACCC's view in respect of other transaction proposals, as each matter will be considered on its own merits.
7. Many of the ACCC's decisions will involve consideration of both non-confidential and confidential information provided by the merger parties and market participants. In order to maintain the confidentiality of particular information, Public Competition Assessments do not contain any confidential information or its sources. While the ACCC aims to provide an appropriately detailed explanation of the basis for the ACCC decision, where this is not possible, maintaining confidentiality will be the ACCC's paramount concern, and accordingly a Public Competition Assessment may not definitively explain all issues and the ACCC's analysis of such issues.

BACKGROUND

The parties

The acquirer: News Limited

8. Amongst other things, News Limited (News) publishes over 100 metropolitan, regional and suburban newspapers including paid daily newspapers in Sydney, Melbourne, Brisbane, and nationally. News publishes free community newspapers throughout Australia. In particular, through its subsidiary Cumberland Community Newspapers, News currently publishes 20 community newspapers in Sydney, the Central Coast and the Lake Macquarie area.

The target: FPC Community Media Group

9. Federal Publishing Company Community Media Group (FPC) is a division of Eastern Suburbs Newspapers Partnership, a partnership of a number of subsidiaries of F Hannan Pty Ltd. FPC publishes and distributes the following free community newspapers and magazines that are the subject of the acquisition.

Sydney

- Central – a free weekly magazine serving Sydney's CBD and inner suburbs.
- City Weekly – a free weekly magazine serving Sydney's CBD commuters.
- 9 to 5 – a free weekly magazine serving Sydney's CBD commuters.
- Inner West Courier – a free weekly newspaper serving Sydney's inner western suburbs.

- Village Voice Drummoyne – a free monthly publication serving Sydney’s inner western suburbs of Drummoyne, Five Dock and Concord.
- Village Voice Balmain – a free monthly publication serving Sydney’s inner western suburbs of Balmain, Rozelle, Annandale and Leichhardt.
- North Side Courier – a free weekly newspaper serving Sydney’s north shore.
- Wentworth Courier – a free weekly newspaper serving Sydney’s eastern suburbs.
- Southern Courier – a free weekly newspaper serving Sydney’s south eastern suburbs.

The Illawarra

- Northern Leader – a free weekly newspaper serving the Wollongong district.
- Lake Times – a free weekly newspaper serving the Shellharbour region.
- Kiama Independent – a paid (\$1.20) weekly newspaper serving the Kiama area.

Gold Coast and Sunshine Coast

- Best of the Gold Coast Magazine – a free quarterly tourist guide serving the Gold Coast.
- Weekender Noosa – a free weekly magazine serving the Noosa region of the Sunshine Coast.
- Weekender (Sunshine Coast) – a free weekly newspaper serving the broader Sunshine Coast region.
- Weekender Nambour and Coolum – a free monthly magazine serving the Nambour, Coolum and surrounding areas of the Sunshine Coast region.

Timing

10. The following table outlines the timeline of key events in this matter.

Date	Event
26-Oct-2006	ACCC commenced review under the Merger Review Process Guidelines. Market inquiries commenced
10-Nov-2006	Closing date for submissions from interested parties
08-Dec-2006	ACCC published a Statement of Issues outlining preliminary competition concerns
22-Dec-2006	Closing date for submissions from interested parties in response to the Statement of Issues
17-Jan-2007	ACCC announced it would not oppose the proposed acquisition

Market inquiries

11. The ACCC conducted market inquiries with a range of industry participants, including competitors, advertisers and other interested parties.

Statement of Issues

12. The ACCC published a Statement of Issues for this proposed acquisition on 8 December 2006. In the Statement of Issues the ACCC stated its preliminary view that the acquisition of FPC's community newspapers and magazines in the Illawarra, the Gold Coast, the Sunshine Coast and eastern, southern and central Sydney was unlikely to raise competition concerns. However, potential competition concerns were identified in northern and inner western Sydney.

COMPETITION ANALYSIS

Analytical framework

13. The ACCC has analysed this proposed acquisition in accordance with the principles set out in the paper on Media Mergers it published in August 2006. In particular, the ACCC has examined whether the proposed acquisition would raise competition concerns in relation to:
- the supply of advertising opportunities to advertisers;
 - the supply of content to consumers; and
 - the acquisition of content from content providers.

Northern and inner-western Sydney

Northern Sydney

14. News proposed to acquire FPC's North Side Courier. The North Side Courier is a free community newspaper with a circulation of 80,000 along a corridor stretching from Sydney Harbour northwards to Wahroonga, just south of Hornsby.¹
15. News published the following free newspapers that overlapped with the circulation of the North Side Courier:
- the North Shore Times, a bi-weekly free community newspaper with a circulation of around 75,000 that overlaps substantially with that of the North Side Courier, the main difference being that the North Shore Times is not circulated in the Mosman area; and
 - the Mosman Daily, a free weekly newspaper circulating in the Mosman area of Sydney. It has a total circulation of around 37,000 which overlaps with the far south-eastern section of the circulation area of the North Side Courier.²

¹ See: http://www.fpc.com.au/sites/sw/sw_2006_08-Distribution_Map.pdf; last accessed 16.02.07.

² See: <http://www.community.newsmedianet.com.au/home/groups/group/title.jsp?titleid=13>; last accessed 16.02.07

16. News also published two other free community newspapers – the Hornsby and Upper North Shore Advocate and the Northern District Times – which overlapped slightly with the circulation area of the North Side Courier.

Inner West Sydney

17. News proposed to acquire FPC's Inner West Courier. The Inner West Courier is a free community newspaper with a circulation of around 75,000 stretching from Newtown and Leichhardt westwards to Strathfield (south of the Harbour).³
18. News published the following free newspapers that overlapped with the circulation of the Inner West Courier:
- the Glebe, a free weekly community newspaper with a circulation of around 49,000 that significantly overlapped with the eastern part of the circulation of the Inner West Courier; and
 - the Inner West Weekly, a free weekly community newspaper with a circulation of around 51,000 that significantly overlapped with the western part of the circulation area of the Inner West Courier.⁴

Supply of advertising opportunities to advertisers

19. The ACCC consulted 45 advertisers in northern and inner-western Sydney. Market inquiries in northern and inner-western Sydney produced similar responses overall.
20. In particular, market inquiries indicated that:
- individual advertisers tend to have a quite different range of advertising options and some advertisers have fewer options than others; and
 - individual advertising deals appeared to be very common. Community newspapers' advertising ratecards were often only starting points for negotiations between advertisers and publishers.
21. These responses complicated the determination of the appropriate product dimension of the relevant advertising markets. For example, price discrimination (as occurs when individual negotiations take place) can, in certain circumstances, lead to separate markets for the supply of the same product to different groups of consumers. However, in practice, it may be difficult to precisely identify each group of consumers.
22. Ultimately, the ACCC considered any suggested product dimension of the market (of the nature noted above) was likely to produce the same outcome. For convenience, the ACCC initially adopted a product dimension comprising community newspapers, and then examined the extent to which substitutes for community newspapers are likely to be available to advertisers (as required by section 50(3)(f) of the Act).

³ See footnote 1.

⁴ See footnote 2.

23. It was clear though that the geographic dimensions of the relevant advertising (and reader) markets comprise inner western Sydney and the north shore of Sydney (as broadly defined by the circulation areas of the newspapers in question).
24. Larger businesses attracting customers from a wide area appeared to have a range of advertising options including television, metropolitan newspapers, the internet and radio, as well as community newspapers. The ACCC concluded that these advertisers were likely to be protected from advertising rate rises post-acquisition by the ability to threaten to reduce their community newspaper advertising and increase their use of other types of advertising.
25. In northern Sydney, real estate advertising in community newspapers was concentrated in the North Shore Times (published by News). In inner-west Sydney, real estate advertising in community newspapers was concentrated in the Inner West Courier (published by FPC). Market inquiries suggested that real estate advertising was concentrated in one community newspaper because real estate agencies wish to advertise where other real estate agencies advertise, and where readers, from previous experience, are likely to expect to find a substantial amount of real estate advertising. The ACCC considered that this 'network' effect meant that other community newspapers were not likely to be significant competitors with the North Shore Times and the Inner West Courier for real estate advertising.
26. In addition, some real estate agencies advertised in *Domain* in the Sydney Morning Herald (published by John Fairfax Holdings Ltd), and almost all agencies advertised on a number of real estate websites. While many real estate agencies indicated that these other advertising options were used in addition to advertising in community newspapers, some indicated that they would consider reducing community newspaper advertising and increasing their use of other types of advertising if community newspaper advertising rates rose post-acquisition.
27. Car dealerships advertising in community newspapers indicated that they currently advertised online, or were seriously considering online advertising as an option, and that they would be likely to reduce reliance on community newspaper advertising if advertising rates rose post-acquisition.
28. Market inquiries suggested that a number of small locally-focused businesses use letterbox drops as an effective alternative to community newspaper advertising (although the ACCC notes that effectiveness of letterbox drops may decrease as more businesses use this method of advertising).
29. Some smaller businesses which advertised in community newspapers also advertised in monthly magazine-like publications, although most indicated that this was supplementary to advertising in community newspapers. However, some types of businesses found advertising in these magazines to be effective, because a specific magazine targets readers who are likely to be interested in the type of products they sell.
30. Some small, very locally focused businesses also found advertising to be effective in community newspapers with significantly smaller distribution areas than the larger News and FPC publications.

31. Finally, a small number of small businesses indicated that paid metropolitan newspapers, and particularly the Sydney Morning Herald, were alternatives to community newspapers. These businesses tended to draw customers from across Sydney.

Other issues

32. The ACCC has found in previous reviews of free suburban/regional newspaper matters (e.g. News Ltd's proposed acquisition of 'Westside Weekly' and 'Ipswich's Own': March 2006), that barriers to entry can be low for community newspapers in certain circumstances. While it did not need to reach a view on barriers to entry in the current matter, the ACCC noted that there appeared to be no examples of significant recent new entry in northern or inner-western Sydney that could help substantiate an argument that barriers to entry were low for a newspaper comparable with those published by News and FPC. The ACCC was also not aware of any significant new community newspapers in the circulation areas of the Wentworth Courier and the Southern Courier, despite a general perception that these papers were highly profitable.
33. Having said this, barriers to entry for much smaller, and often less frequently published newspapers and magazines appear to be lower. There appears to be a substantial number of these publications circulating in Sydney generally. One significant market participant indicated that if advertising rates rose, it would consider establishing its own publication.
34. In its Statement of Issues the ACCC indicated that the degree of substitutability for advertisers between the Inner West Weekly and the Glebe, on one hand, and the Inner West Courier on the other, was unclear because of their different circulation areas. Specifically, the circulation areas of the Glebe and Inner West Weekly combined were broadly similar to the distribution area of the Inner West Courier. Market inquiries subsequently indicated that the Inner West Weekly was a closer substitute for advertisers for the Inner West Courier than was the Glebe.
35. Some advertisers questioned whether the North Side Courier was an effective competitor to the North Shore Times. However, others indicated that the North Side Courier was improving as a competitor following a recent re-launch.

Conclusion

36. Market inquiries indicated that a range of advertising alternatives to free community newspapers exist for many advertisers in northern and inner western Sydney, although individual advertisers may have different alternatives and some advertisers may have fewer alternatives than others.
37. As noted in paragraph 20, community newspapers' advertising ratecards were often only starting points for negotiations between advertisers and publishers about advertising prices. The ACCC recognised that the proposed acquisition may result in an increase in News' bargaining power in negotiations with some advertisers in northern and inner western Sydney. However, the ACCC considered that this

lessening of competition was likely to be relatively small and would be unlikely to constitute a *substantial* lessening of competition.

38. Generally, the ACCC was satisfied that, in this matter, sufficient advertising alternatives existed to provide a competitive alternative for most advertisers in the relevant community newspapers in northern and inner western Sydney. As such, the proposed acquisition would be unlikely to substantially lessen competition in advertising markets in these areas in breach of section 50 of the Act.

Supply of content to readers

39. The ACCC considered the potential effect of the proposed acquisition on competition for readers of the relevant community newspapers. Community newspapers typically provide a range of local news and information to readers.
40. Community newspapers are delivered free to readers' homes. The most likely way that a community newspaper publisher would attempt to exercise market power on readers would be by reducing the 'quality' of its newspaper.⁵
41. Following an acquisition, a publisher could reduce the quality of the newspapers in two broad ways, which we refer to as 'layout' and 'diversity of content'.

Layout

42. A publisher who is less constrained by competition can downgrade the general presentation and layout of the relevant newspapers. The proportion of advertising to content (particularly news stories) could be increased, although readers may be at least partially attracted to community newspapers because of the local advertising they contain. To the degree that the newspapers include colour sections or supplements, the publisher may reduce the use of these sections or supplements post-acquisition. Possibly, the types of stories covered by the newspaper may change or the quality of individual stories might decline although, in practice, assessing the impact of these sorts of changes on the quality of a newspaper would be likely to involve difficult subjective judgements.
43. However achieved, reducing the quality of layout of a community newspaper would be likely to result in a proportion of consumers ceasing to read the newspaper or reducing the time they spend reading the newspaper. While a reduction in effective readership would be the direct consequence of reducing the quality of layout in a free community newspaper, the effect on the profitability of the newspapers would occur through the indirect effect of the reduction in readership on advertising. In other words, the effect of a loss of readership would be felt indirectly through a potential loss of advertising as businesses become concerned that their advertising is reaching fewer potential customers. The effect on advertising is therefore a critical aspect in determining the competition effects of the proposed acquisition.

⁵ While it would be possible in theory for a publisher to commence charging readers, this would radically change the nature of the newspapers in question. In particular, many readers would be likely to seriously consider whether to continue receiving the newspaper.

44. As discussed above, the ACCC was satisfied that, in this matter, sufficient advertising alternatives existed to provide a competitive alternative for most advertisers in the relevant community newspapers in northern and inner western Sydney. This constraint provided by advertisers means that following the proposed acquisition, the acquirer (News) would be constrained in any attempt to significantly reduce the quality of layout for readers of the relevant newspapers by the potential loss of advertising that would accompany any substantial drop in readership.

Diversity of content

45. An acquisition may also substantially lessen competition if it results in a substantial reduction in the quality of the relevant newspapers through a reduction in the diversity and coverage of content provided to readers.

46. Media diversity is primarily protected by direct legislative restrictions on cross-media mergers. Under the new cross-media laws (once proclaimed):

- there must remain at least five independent media voices in metropolitan areas and four in regional areas; and
- a person may not own more than two out of three media types.

47. The ACCC notes that the legislative restrictions on cross-media mergers do not extend to free weekly community newspapers – that is, the cross-media restrictions (both prior to and with the recent amendments) do not protect media diversity by preventing a television or radio proprietor from acquiring a community newspaper.⁶

48. In the current matter, the ACCC recognised that the proposed acquisition may lessen the number of publishers in the community newspaper sector in northern and inner western Sydney, although a range of other media voices would remain in these areas. While some concerns about a reduction in the diversity and range of content were expressed to the ACCC during its market inquiries, these concerns were not numerous. Further the same types of competitive constraints that exist in regard to the quality of layout for the relevant newspapers would also limit the ability of News to profitably downgrade the range and diversity of content coverage post-acquisition. A reduction in the quality of the relevant newspapers through a significant reduction in the diversity of views or the range of stories covered by those newspapers would result in a loss of readership and a reduction in the attractiveness of the newspapers to advertisers. This means that it is likely that post-acquisition News would continue to cover a wide range of local news stories so as to attract the widest possible range of readers, and therefore advertisers.

49. Finally, while retaining separate ownership of media outlets may well encourage proprietors to maintain the quality and diversity of the content they provide consumers, it does not guarantee it. For example, commercial conditions may push

⁶ A newspaper is defined in section 6 of the *Broadcasting Services Act 1992* to be one that is in the English language and is published on at least 4 days in each week, but does not include a publication if less than 50% of its circulation is by way of sale.

owners to change the layout of their newspaper, or broaden or narrow the range of content they provide, because such a change would protect their profitability. Similarly, a merger may not necessarily reduce diversity of content, if it is profitable for the owner to maintain it.

Acquisition of content from content suppliers

50. Much of the content of the relevant newspapers in northern and inner-western Sydney is advertising, and as noted above readers may at least partially be attracted to the newspapers because of this advertising. The remaining news and information content is largely self-supplied. Consequently, the proposed acquisition is unlikely to raise issues in any market for the acquisition of content from content suppliers.

Eastern and southern Sydney

51. FPC publishes the Wentworth Courier in eastern Sydney and the Southern Courier in southern Sydney. News does not publish any community newspapers distributed in these areas. However, it does publish The Daily Telegraph, a paid, daily newspaper circulating across Sydney, and The Australian, a national newspaper that circulates in Sydney.
52. In particular, while the Daily Telegraph circulates in the eastern and southern suburbs of Sydney, it also reaches a large group of readers outside of this area. Indeed, market inquiries indicated the Daily Telegraph was ‘stronger’ in western Sydney. Switching advertising from the Wentworth Courier or the Southern Courier to the Daily Telegraph would therefore typically require smaller advertisers to pay for advertising to potentially a substantial number of readers outside of their target group. Consequently, the ACCC was satisfied that the Telegraph was likely to be a poor substitute for advertising in the Wentworth Courier or Southern Courier, at least for small retail advertisers. The same argument can be made in relation to The Australian (with more strength to that argument given this paper’s national focus). The ACCC noted that few advertisers, and almost no small advertisers, in northern and inner-western Sydney indicated that advertising in the Daily Telegraph was a reasonable substitute for advertising in a community newspaper.
53. Further, for any advertisers for which the Daily Telegraph represents a substitutable advertising option (e.g. some larger advertisers), there exists a strong competitor in the form of the Sydney Morning Herald.⁷
54. Consequently, the ACCC was satisfied that News Ltd's acquisition of FPC’s community newspapers in eastern and southern Sydney would not be likely to raise competition concerns.

⁷ In October 2006, News acquired a 7.5 per cent stake in John Fairfax Holdings Ltd, which publishes the Sydney Morning Herald. The ACCC does not consider that the acquisition by News of this stake in Fairfax results in News Ltd's proposed acquisition of FPC's Illawarra publications giving rise to competition concerns.

Sydney commuter publications

55. The ACCC concluded that the commuter publications published by News and FPC are unlikely to be close substitutes for advertisers and consumers for the following reasons:

- ‘9 to 5’ targets females aged 25 - 39 years in their early to mid career;⁸
- the City Weekly targets males and females aged between 30 and 54;⁹
- mX targets an audience between 18 and 34;¹⁰
- mX is a daily newspaper circulated in the evening, while ‘9 to 5’ and the City Weekly are weekly magazines circulated in the morning; and
- there appears to be little overlap in the nature of the advertisers in the FPC and News publications. For example, the editions of mX seen by the ACCC did not contain classified advertising, unlike ‘9 to 5’ and the City Weekly.

56. Consequently, the ACCC considered that the proposed acquisition by News of FPC's Sydney commuter publications would be unlikely to raise competition concerns.

The Gold Coast

57. News proposed to acquire FPC's Best of the Gold Coast Magazine, a quarterly tourist publication. News published the main paid daily newspaper on the Gold Coast (the Gold Coast Bulletin) and a free weekly community newspaper (the Gold Coast Sun). The nature, primary target audience and frequency of publication of the News and FPC publications are very different, suggesting that they are not significant competitors for advertisers or readers. Consequently, the ACCC considered that the proposed acquisition by News of FPC's Gold Coast publication was not likely to raise competition concerns.

Sunshine Coast

58. News proposed to acquire the Weekender Noosa, a free weekly gloss lifestyle magazine in the Noosa region, and the other ‘Weekender’ publications published by FPC on the Sunshine Coast. News already published the Noosa Journal, a free weekly community newspaper in the Noosa region. It did not publish newspapers in the circulation areas of the other ‘Weekender’ publications on the Sunshine Coast.

59. Market inquiries suggested that there was little competition between the Weekender Noosa and the Noosa Journal. In particular, the Weekender Noosa was more a magazine-style publication, while the Noosa Journal was a traditional newspaper-style publication.

⁸ See: <http://www.fpc.com.au/page/couriersite.php?pageid=10>; last accessed on 20.02.07.

⁹ See: <http://www.fpc.com.au/page/couriersite.php?pageid=3>; last accessed on 20.02.07.

¹⁰ See: <http://www.mxnet.com.au/>; last accessed on 20.07.02.

60. In any case, post-acquisition, a strong competitor would remain in the area, that is, APN News and Media, the publisher of the Noosa News, a free bi-weekly community newspaper in the Noosa region.
61. Consequently, the ACCC considered that no competition concerns were likely to arise from News Ltd's proposed acquisition of the Weekender Noosa (or the other FPC 'Weekender' publications on the Sunshine Coast).

The Illawarra

62. News did not publish newspapers (community or otherwise) in the Illawarra, where FPC published the Northern Leader, the Lake Times and the Kiama Independent.¹¹ As such, the ACCC did not consider that the proposed acquisition would be likely to raise competition concerns in the Illawarra region.

Conclusion

63. On the basis of the above the ACCC formed the view that the proposed acquisition of FPC Community Media Group by News Limited would not be likely to result in a substantial lessening of competition in any relevant market in contravention of section 50 of the Act.

¹¹ In October 2006, News acquired a 7.5 per cent stake in John Fairfax Holdings Ltd, which publishes the Illawarra Mercury, the major paid daily newspaper in the Illawarra region. The ACCC does not consider that the acquisition by News of this stake in Fairfax results in News Ltd's proposed acquisition of FPC's Illawarra publications giving rise to competition concerns.