

# Discussion Paper: Options To Improve The Environment For New Zealand Journalism

## Contents

1. Purpose .....	1
2. Background .....	1
3. Current state – a summary .....	2
4. Evidence that NZ journalism is ‘in trouble’ .....	4
5. International Developments .....	5
6. Recommendations from the ACCC and Cairncross Reports and their potential relevance to NZ..	7
7. Options for New Zealand .....	12
APPENDIX .....	16

## 1. Purpose

Following a roundtable meeting in July 2019, facilitated by NZ On Air and involving a broad cross-section of senior New Zealand editorial executives, NZ On Air asked business journalist Patrick Smellie to produce a short options paper to clearly identify and discuss regulatory options for policymakers to consider.

The paper draws, in particular, on two recent studies from like-minded countries - Australia’s ACCC Report and the UK’s Cairncross Report – to consider whether there are options that might be feasible or adaptable to New Zealand’s lightly regulated media environment.

## 2. Background

Both legacy and emerging NZ news publishers have been expressing concerns for some time about the sustainability of public good journalism in the current, very challenged times for journalism as a commercial activity.

New business models for journalism may slowly be emerging, but no clear and sustainable future has yet emerged in NZ for the kind of public interest journalism that contributes to an informed and engaged democratic society, but which has been disappearing owing to the shrinking fortunes of most NZ news organisations.

The question is being asked: is there a role for publicly funded initiatives to sustain certain types of civically important journalism in this environment?

And if so, what would those initiatives look like?

Similar jurisdictions have been grappling with the same issues and this question was at the core of an industry roundtable meeting in July 2019, initiated and facilitated by NZ On Air. The key points that were raised at this forum included:

- At its best, journalism is a ‘public good’ activity. It fosters transparency, accountability, and freedom of expression and diversity of thought in public life. It is a vital element in a healthy democracy.
- Journalism produced to a high professional standard and focused on public interest issues is increasingly important in an environment where the incidence of so-called ‘fake news’ and associated political campaigning through news-type websites is growing.
- In this context, public interest is defined as issues that affect society, the economy and the natural environment.
- Journalism is facing unprecedented challenges as a commercial activity because of the impact of digital technology on traditional news outlets’ business models, particularly newspapers and linear TV broadcast news services.
- The consequent ‘hollowing out’, particularly of public good elements of journalism, is coinciding with a global political climate in which traditional defenders of democratic norms and institutions are losing ground to populism and authoritarianism.
- The scale of the challenges facing journalism justifies governments in liberal democracies considering how to ensure that public good journalism is sustained.
- The threats to journalism are unlikely to be overcome by governments assisting individual commercial entities, but rather by structuring support that sustains the profession of journalism.
- Adequate state funding of journalism through government-owned broadcast news services will continue, but should not be accepted as a replacement for a range of other news sources as a necessary component of a healthy, multi-voiced media culture.

### 3. Current state – a summary

This is briefly discussed at a global and a local level.

#### 3.1 Global

At a global level, there are two key drivers of public good journalism’s decline:

- (a) Incumbent media owners’ failure to monetise news during the transition to online by both news readers/viewers and advertisers.

News publishers believed advertising revenue would follow them online. Instead, revenue defected at much lower cost to new and powerfully competitive online platforms, most notably the search engine Google, social media site Facebook, and auction sites such as TradeMe and eBay that have replaced personal classified ads.

This loss of advertising revenue, accompanied by collapsing subscriptions for physical newspapers and audiences for linear TV news broadcasts, has caught traditional news businesses in a double bind of high legacy costs and rapidly declining revenue.

While NZME and Stuff remain profitable, that is only because the print publications still make money, albeit less and less every year (*see profitability table below*). Their online offerings are extensive and growing, but are far from covering their costs;

- (b) The rapid global dominance achieved by search (Google) and social media (Facebook) platforms

This has driven audience growth in part by using traditional news providers' content without payment. The platforms argue that their new channel to consumers is valuable enough to the news content producer.

Search and social media platforms have also become increasingly sophisticated at harvesting commercially useful data and manipulating audience behaviour to drive revenue.

We have also seen a variety of attempts to monetise news content, some of which have failed and others that are starting to mature.

Two main models appear open to news businesses, aside from seeking government support:

- (a) Philanthropic, supported by donors both large and small (The Guardian) and developing a membership model; and
- (b) Subscription-based (The Financial Times, Sydney Morning Herald). Sponsored content sites are also being trialled. Advertising-only models appear to be unable to sustain adequately resourced news businesses, except in very populous or hyper-local markets.

### 3.2 Unique New Zealand elements

**Scale** – News is as expensive to produce, proportionately, in NZ as it is in the US. However, potential audience in NZ is far smaller. Potential total readership makes a huge difference to the profitability of a news business, particularly one requiring substantial capital assets. While online business models require less capital, the potential subscriber base and advertising revenue pool is generally limited by the size of the NZ population. In other words, the small NZ population limits the upside potential of news businesses that do not have an international dimension.

**No international expansion** - no NZ news business has ever made significant investments outside NZ. There is a very limited global market for NZ news.

**Market concentration** –small market scale favours a few large (by NZ standards) players in order to achieve both economies of scale and commercial sustainability. In the proposed NZME/Stuff merger the Commerce Commission, upheld by the courts, determined that in the case of news businesses, the loss of a 'plurality' of media voices was a more important competition issue than profit-enhancing potential of economies of scale.

**Democratic values** - NZ is a successful liberal democracy. A healthy media is an important part of maintaining that.

## 4. Evidence that NZ journalism is ‘in trouble’

Global measures of the scale of decline in traditional news businesses are widely available. Research into the state of New Zealand private sector media is more limited.

However, six key statistics tell the story in outline - employment, advertising, circulation, publisher profitability, market capitalisation, no new buyers:

### 4.1 Number of journalists, 2006 vs 2018

Census 2006: 4,284 reporters, editors and sub-editors

Census 2018: 2,061 print, radio TV journalists or ‘other writers’

Note: descriptors changed between censuses, but these figures suggest a halving of the journalistic workforce in 12 years<sup>1</sup>

### 4.2 Share of advertising<sup>2</sup>

	2002	2014
Newspapers	40%	20%
Television	33%	26%
Online	Negligible	25%

### 4.3 NZ newspaper circulation<sup>3</sup>

A steep decline in the last 10 years

	2008	2018	Decline since ‘08
Sunday News	83,125	12,062	85.5%
Sunday Star-Times	174,154	63,538	63.5%
Dominion Post	92,005	39,626	56.9%
The Press	85,053	39,758	53.3%
NZ Herald	180,939	104,266	42.4%
Otago Daily Times	40,668	30,948	23.9%
Herald on Sunday	93,751	77,751	17.1%

Note: The ODT has pursued a ‘print-first/online-second’ strategy, which may explain its lower rate of circulation decline than other metropolitan daily newspapers.

### 4.4 Publisher profitability falling fast too<sup>4</sup>

Stuff (June year)	FY15	FY16	FY17	FY18	FY19
Revenue	\$385.7m	\$352.2m	\$329.1m	\$304.6m	\$269.4m
EBITDA <sup>5</sup>	\$70.3m	\$60.2m	\$55.5m	\$40.5m	\$30.2m
NZME (Dec year)					
Revenue	\$431m	\$408.6m	\$391.4m	\$388.9m	tba
EBITDA	\$67.5m	\$67.2m	\$66.1m	\$54.7m	tba

<sup>1</sup> Source: Stats NZ

<sup>2</sup> Source: NERA Consulting for Russell McVeagh, for submission to the Commerce Commission in support of the NZME/Stuff merger, May 2016

<sup>3</sup> Source: NZ Audit Bureau of Circulations, June 2019

<sup>4</sup> Source: Jarden report, 12/9/19

<sup>5</sup> Ebitda = earnings before tax, interest, depreciation and amortisation – a topline measure of profitability.

Both NZME and Stuff have also announced multiple write-downs on masthead valuations over the last decade.

The September 2019 Jarden report suggested the 2016 NZME/Stuff merger proposal, rejected by the Commerce Commission and courts, would have more chance of being approved today because of the rapid deterioration in news publishers' earnings.

*“There seems little doubt that the counterfactual (both news organisations surviving as separate entities) is looking increasingly problematic with not insignificant evidence suggesting Stuff will continue to shrink in size and importance.” (Jarden)*

#### 4.5 Market capitalisation of major publishers – evidence of large-scale value loss

In 1995, Irish businessman Tony O'Reilly paid \$300m for a 28% stake in Wilson & Horton, valuing the company at **\$1.1 billion**. On Sept 27, 2019, the NZME share price closed at 44.5 cents, valuing the company at **\$87.2 million**.

In other words, even without adjustment for inflation and the fact that NZME owns a profitable commercial radio network, that Wilson & Horton did not, NZME is worth less than 1/10<sup>th</sup> of what it was valued at almost 25 years ago.<sup>6</sup>

#### 4.6 Failure of print titles to find buyers

Stuff's new owner, 9 Entertainment, bought the NZ assets previously owned by Fairfax Media with the intention of selling them. However, a sale process initiated at the end of 2018 was abandoned in mid-2019. It is unclear whether any bids were received or whether bids received were too low. Likewise, local newspaper titles offered for sale by Stuff prior to sale by Fairfax saw most close.

The most widely noted transaction to buck this trend has been the 2016 sale by NZME of the Wairarapa Times-Age to a Masterton businessman. The paper has pursued a 'print-first' strategy and claims to be both profitable and to have been assisted by shedding NZME's head office costs.

## 5. International Developments

Two major reviews of the impact on news and journalism have been undertaken in like-minded jurisdictions in the last 18 months – Australia and the UK - referred to in this report respectively as the 'ACCC' and 'Cairncross' reports.

Both reached similar conclusions about the negative impact of dominant search and social media platforms. Eight relevant points are:

### 5.1 Digital platforms' argument that they are not publishers is contestable

- *“Digital platforms increasingly perform similar functions to media businesses, such as select and curating content, evaluating content, and ranking and arranging content online” (ACCC);*
- *“If platforms were liable for all content on their services, they would be forced to vet everything they, or users, uploaded, placing strict constraints on what could be shared or surfaced. The overall effect might well be to reduce the online availability of news. The proposal (to require platforms to accept the same legal responsibilities as publishers) goes too far.” (Cairncross)*

---

<sup>6</sup> Sources: NZ Herald; NZX

5.2 A far greater proportion of news is accessed via Google/search and Facebook/social media than directly via news websites

- Google has “substantial market power” (ACCC);
- “A significant number of media businesses rely on news referral services from Google to such a degree that it is an unavoidable trading partner” (ACCC).

5.3 Digital platforms have changed algorithms that were delivering traffic to news websites without regard to the unanticipated commercial impact of those changes to the content-creating news site, from which the platform is deriving revenue while not paying for that content

- “Google and Facebook each appear to be more important to the major news media businesses than any one news media business is to Google or Facebook.” (ACCC)

5.4 Media regulation and competition law have failed to keep pace with the rapid emergence of digital communications and their impact on journalism and news businesses

The largest platforms have considerable influence over dissemination of news and other information, in a largely unregulated environment. Use and collection of personal data is subject to privacy law, where legislation is more up with the play.

5.5 A major power imbalance exists in that news media are unable individually to negotiate terms with Google and/or Facebook

- “Any market in which a small number of companies capture the bulk of the revenue is potentially a cause for concern.” (Cairncross)

5.6 Google and Facebook are both responsive to threats of regulation, particularly Google

- “Globally, Facebook and Google have introduced multiple ‘journalism initiatives’, new subscriptions services as well as partnerships with media organisations, to reduce the threat of regulation. None of these have been announced specifically in New Zealand.”<sup>7</sup>

5.7 Trust in news media has been eroding and part of that erosion relates to the rise of digital platforms where information is readily published, but not so readily verifiable or credible

Algorithmic manipulation of news feeds contributes to an ‘echo chamber’ effect for online news readers, where their personal preferences and interests are prioritised via platform algorithms, lessening exposure to differing points of view and serendipitous discovery that encourages open-mindedness.

- Platforms have a responsibility “to monitor the availability of unreliable news online ... and to nudge people towards reading news of high quality.” (Cairncross)
- ACCC says “efforts in this area should not be designed and implemented at the sole discretion of digital platforms”. It recommends that a “an independent regulator such as ACMA<sup>8</sup> provide oversight of these voluntary initiatives by monitoring digital platforms’ efforts to enable users to identify reliability, trustworthiness and provenance of news content featured on their services”.

5.8 Particular types of public interest journalism are especially threatened

- “Two areas of public interest news that matter greatly. Each is often of limited interest to the public, but both are essential in a healthy democracy.” 1/ investigative and campaigning journalism, which is both costly and high-risk; and 2/ reporting on the daily activities of public institutions, particularly those at local level. (Cairncross).

---

<sup>7</sup> Source: “Google, Facebook and New Zealand news media: The problem of platform dependency”; by Merja Myllalahti, Co-Director, Journalism, Media and Democracy Research Centre, AUT, Sept 2018;

<sup>8</sup> ACMA = [Australian Media and Communications Authority](#)

## 6. Recommendations from the ACCC and Cairncross Reports and their potential relevance to NZ

The ACCC and Cairncross recommendations for action showed considerable alignment. Both jurisdictions have media regulators: the Australian Communications and Media Authority in Australia, and in the UK, Ofcom, which regulates communications services and has been tasked with researching news consumption trends in Britain.

NZ's media regulation is more light-handed and is not concentrated in one body. The Media Council is a voluntary, industry-funded body that adjudicates on complaints relating to print and online media. The Broadcasting Standards Authority, funded 50/50 by Government and broadcasters, considers complaints against radio and TV news reports.

The relevant ACCC and Cairncross recommendations are summarised in the table below and implications are briefly discussed in section 7.

ACCC recommendation	Cairncross recommendation	Relevance in NZ context
<p><b>Regulatory framework</b></p> <p>Update the regulatory framework <i>“to ensure comparable functions are effectively and consistently regulated”</i></p> <p>Regulation should be ‘platform-neutral’</p> <p>Where platforms and news media businesses converge, <i>“they should be regulated similarly”</i> because of the regulatory imbalance between them at present is <i>“distortionary and should be addressed”</i></p> <p>There should be <i>“clear and appropriate enforcement and meaningful sanctions”</i></p> <ul style="list-style-type: none"> <li><i>“Now is the time to consider the current and likely future issues associated with digital platforms and their business models and to put in place frameworks that enable adverse consequences to be addressed and that reduce the likelihood of new issues arising.”</i></li> </ul>	<p>Regulator should have a <i>“full set of legally backed powers to command information and ensure compliance”</i> with codes of conduct (see below)</p> <p>Government should implement <i>“stronger measures”</i> if platforms’ behaviour is not sufficiently constrained by implementation of codes (see below)</p> <p>Platforms should face regulatory scrutiny in their efforts to identify ‘good’ or ‘high quality’ news for users.</p> <ul style="list-style-type: none"> <li><i>“This task is too important to leave entirely to the judgment of commercial entities.” (see below)</i></li> </ul>	<p>No single statutory media regulator. Media complaints are siloed between Media Council (print/online, voluntary) and Broadcasting Standards Authority (TV and radio, statutory). Digital platforms are regulated by competition law/the Commerce Commission (ComCom)</p> <p>A regulator should ideally have enforcement powers and should have no public interest journalism funding responsibilities</p> <p>Options include:</p> <ul style="list-style-type: none"> <li>A media/platform regulation unit embedded in the Commerce Commission</li> <li>A new, standalone entity with enforcement powers</li> <li>Extending trans-Tasman co-regulatory structures by having NZ become a partner in ACMA</li> </ul>

<p>Large digital platforms should be obliged to advise to the ACCC of acquisition proposals that could affect competition in Australia</p> <p>Warns there will be costs to both govt and industry of new regulation and agency functions (uncosted)</p>		
<p><b>Codes of Conduct</b></p> <p>Search and social media platforms of scale should be required to establish codes of conduct to govern commercial bargaining between platforms and individual news publishers</p> <ul style="list-style-type: none"> <li>• To correct the current negotiating power imbalance</li> <li>• Developed in close consultation with the competition regulator</li> <li>• Code to be overseen by a regulator</li> <li>• Failure to establish a code within a particular timeframe would trigger a regulator imposing a code</li> </ul> <p><i>“Breaches of the code would be dealt with by ACMA, which should be vested with appropriate investigative and information gathering powers and the capacity to impose sufficiently large sanctions for breaches to act as an effective deterrent.”</i></p>	<p>Codes of conduct would <i>“constrain the behaviour of the largest online platforms while still allowing for individual negotiations to take place”</i></p> <ul style="list-style-type: none"> <li>• Codes to be subject to regulator oversight</li> <li>• Regulator to <i>“provide the relevant platforms with guidance on what the codes should include”</i>.</li> <li>• Publishers could seek adjudication if platforms were not felt to be respecting the code</li> </ul> <p>Cairncross rejected proposals to exempt news publishers from anti-cartel laws that would allow joint negotiation with platforms as publishers have varied interests and <i>“disagreement over payments would ultimately require government to step in and determine the value of a commercial exchange. This would be especially difficult here because value is likely to vary wildly from one exchange to another.”</i></p>	<p>Would require establishment of a regulatory body or unit with policy expertise and enforcement powers</p> <p>Would require platforms to negotiate commercial terms with NZ news providers</p> <p>Would act as an incentive for platforms to invest in NZ news initiatives under ‘threat’ of regulation</p>

<p><b>Market study into digital platforms</b></p> <p>ACCC does not explicitly recommend a market study, but recommends addition to existing investigation tools with capacity for “proactive investigation, monitoring and oversight” of how digital platforms are affecting markets, particularly advertising</p> <p>ACCC notes several investigations are already under way and might not have been without the spur of this inquiry</p> <p>ACCC notes issues in the following areas would benefit from scrutiny:</p> <ul style="list-style-type: none"> <li>• Merger and acquisition law settings</li> <li>• Addressing ‘default bias’ by platforms favouring their own services</li> <li>• The role of data in market power</li> </ul> <p><i>“The opacity and complexity of these markets make it difficult to detect issues and can limit the effectiveness of the broad principles” (of existing competition law settings)</i></p>	<p>Competition and Markets Authority should conduct a formal market study into the operation of the online advertising industry</p> <p>Cairncross found this market difficult to analyse reliably, making the use of mandatory information-gathering powers worth considering</p> <p><i>“the position of the large online platforms could be restricting competition and stifling innovation, with consequences for publishers as well as users.”</i></p>	<p>Market studies proposed in UK and Australia are into platforms’ advertising practices, rather than news provision.</p> <p>ComCom has limited resources to undertake market studies:</p> <ul style="list-style-type: none"> <li>• NZ Govt indicating several competing, potentially more pressing market study subjects (building materials, supermarkets and others)</li> <li>• Therefore, it is unlikely such a market study would be prioritised in the next two-to-four years</li> <li>• Market study could be pursued but would preferably not become a source of delay for policy action to support public interest journalism.</li> </ul>
<p><b>News Quality Obligation</b></p> <p>ACCC acknowledges the larger platforms are taking steps in this area voluntarily</p> <ul style="list-style-type: none"> <li>• But they should <b>not</b>, in the regulator’s view, <i>“be designed and implemented at the sole discretion of the digital platforms”</i>;</li> </ul> <p>Recommends ACMA <i>“provide oversight by monitoring digital platforms’ efforts to enable users to identify, reliability,</i></p>	<p>Platforms should be subject to regulatory oversight in their efforts to help users identify reliable, trustworthy news sources.</p> <p><i>“Their efforts should be placed under regulatory scrutiny – this task is too important to leave entirely to the judgment of commercial platforms alone.”</i></p> <p>Rejects proposals that platforms should be subject to the same legal responsibilities as news</p>	<p>Requires a regulator/arbitrator of what constitutes ‘quality’ news</p> <ul style="list-style-type: none"> <li>• May be useful as part of a media literacy strategy</li> <li>• Supports rationale for Govt investment in public interest journalism</li> </ul>

<p><i>trustworthiness and provenance of news content featured on their services”</i></p> <p>Industry code should be developed for handling complaints about disinformation</p> <p>Impose a mandatory standard if platforms fail to come up with a code within a designated timeframe</p>	<p>publishers because it would likely “<i>reduce the online availability of news and to harm users (who clearly value the online platforms’ aggregation services).</i>”</p>	
<p><b>Media Literacy</b></p> <p>Public funding and certification should be established for NGOs to deliver digital media literacy courses and training, led by the Office of the e-Safety Commissioner</p> <p>Make digital literacy part of the Australian school curriculum</p>	<p>Govt should develop a media literacy strategy with Ofcom, the digital platforms, news publishers, NGOs and academics to identify gaps and collaborative opportunities.</p> <p><i>“For democracy to function, it is essential that adults as well as children have an understanding of content origination, facts and opinions; of how to distinguish disinformation from accurate reports;”</i> and why stories about the same story can have different facts and editorial framing</p>	<p>Should target both adults and learners</p> <p>Some work in this area has been undertaken in the past (via the BSA partnering with a polytech)</p> <p>Online and school curriculum delivery options</p> <p>Requires sustained funding plus engagement from education sector to be impactful</p>
<p><b>Targeted Funding for Public Interest Journalism</b></p> <p>ACCC proposes A\$50 million p.a. to fund “<i>the production of local reporting</i>”, defined as “<i>matters relevant to local and regional communities such as local courts, local issues and local government</i>”</p> <ul style="list-style-type: none"> <li>Proposes a contestable fund for investigative journalism be included</li> <li>Review after three years</li> <li>“<i>The ACCC is concerned by the declining number of professional journalists</i>”</li> </ul>	<p>Cairncross proposes a GBP10 million “<i>innovation fund</i>” for public interest journalism, including research into successful business models emerging for local journalism</p> <p><i>“As far as possible, support should be focused on innovations that aimed at aiding the provision of public interest news directly”</i></p>	<p>Funding needs to be sufficient to have impact</p> <ul style="list-style-type: none"> <li>Funding should be targeted to subject areas (courts, local govt, Maori issues) rather than to particular corporate entities</li> <li>Initiatives will require multi-year committed funding or risk lack of commitment/excessive caution from funding recipients</li> </ul>

<p><i>focussing on Australian news and the reduction in certain forms of reporting beneficial to society that are unlikely to be the focus of newer forms of journalism”</i></p>	<p><i>“Public support should be generous enough to make a difference”</i></p> <ul style="list-style-type: none"> <li>• Review after three years</li> <li>• Proposes creation of a new Institute for Public Interest News</li> </ul>	<ul style="list-style-type: none"> <li>• Important to take an evidence-based approach</li> <li>• Public interest journalism definition is important</li> <li>• Must include Maori and diverse communities’ needs</li> <li>• Google and Facebook should be encouraged to extend journalism funding initiatives in other countries to NZ.</li> </ul>
<p><b>Tax relief</b></p> <p>Enable philanthropic support for <i>“not-for-profit organisations that produce, promote, or assist the production of public interest journalism”</i></p> <p>By broadening a new charitable purpose ‘deductible gift recipient’ status for such organisations</p> <p>A ‘public advocacy’ purpose would disqualify an applicant for charitable status</p>	<p>Extend charitable status to news publishers, where desired</p> <p>UK publishers reported that <i>“news organisations are finding it almost impossible to acquire charitable status under the current framework”</i> largely owing to them being both commercial entities and having political standpoints (the latter less of an issue in NZ?)</p> <p>Proposes zero-rating news subscriptions for VAT (GST)</p>	<p>Charities legislation would allow extension of the existing regime to cover philanthropic support for public interest journalism</p> <ul style="list-style-type: none"> <li>• Could the r&amp;d tax credit regime be extended to cover experimental journalism models, or would this compromise the policy?</li> <li>• GST exemption for news products unlikely – NZ govts have consistently declined sector-specific zero-rating</li> </ul>
<p><b>Stable and adequate funding for public broadcasters</b></p> <p>ABC and SBS funding should remain “stable and adequate” because of their contribution to public interest journalism</p> <p>Public broadcasters alone are not sufficient to provide a range of public interest news production</p>	<p>Cairncross concentrates on the impact of the BBC in driving the widest possible reach for its own content vs driving traffic from its online site to commercial (particularly local) publishers</p> <ul style="list-style-type: none"> <li>• The BBC’s continuing role in public interest journalism is “extremely important”.</li> </ul> <p><i>“Ofcom should review to what extent BBC online content acts as a substitute for, rather than a complement to, the offerings of commercial news providers and what measures might reasonably be required to reduce substitution.”</i></p>	<p>This has begun for RNZ, although funding to date has been ‘catch-up’ in nature</p> <p>Contestable public media funding through NZ On Air (and Te Mangai Paho) has also been mostly frozen for much of the last decade.</p>

## 7. Options for New Zealand

*“It would be wise for New Zealand authorities to at least examine how search engines and social media platforms shape digital media markets and the local journalism ecosystem, especially when platforms have not invested in any specific journalism projects in New Zealand.”*

*“Before considering taxes, levies or forms of regulation for platforms, authorities should have a clear picture of the ‘platform problem’, and what measures may best support local journalism and media sustainability. As Fairfax Media (Australia) has warned (2018), regulation can have unintended consequences if not properly considered.”<sup>9</sup>*

Both the ACCC and Cairncross reports agreed that there is a case for public policy interventions, including government funding, in the interests of sustaining certain types of public interest journalism. New Zealand’s news media environment is clearly analogous to both the Australian and UK examples.

Ten credible options emerge from consideration in New Zealand from these reports and from the discussions already occurring among New Zealand news publishers and broadcasters in each of the areas covered by both the ACCC and Cairncross.

### Option 1. Revised regulatory framework

NZ lacks a clear forum for media regulation and governance of media policy issues. There is no single expert body or mechanism to evaluate or propose and roll out solutions.

Without either an agency or a dedicated resource within an existing agency, policy development is likely to occur in siloes, risking a lack of coherence and inefficient execution.

Opportunities:

- Co-ordinating an enforcement agency for platform codes of conduct (and other workstreams - see points below)
- Take primary responsibility for media literacy initiatives
- As the problem is global in nature, there may be an opportunity to consider NZ membership of a trans-Tasman ACMA, similar to other CER regulatory bodies (e.g., food standards)

Risks:

- Unintended consequences emerge from well-intentioned regulation
- A new agency, set up from scratch, will have no track record
- Embedding a media regulator within an existing agency, such as the Commerce Commission, may be preferable
- Funding and regulation should be separate to avoid editorial threats

### Option 2. Code of conduct

Establishing a code of conduct between platforms and news publishers governing commercial arrangements for the use of news content on search and social media platforms of scale would bring some commercial certainty to news publishers while clearly signalling to the platforms that they risk government-imposed regulation if they fail to embrace such codes in good faith.

---

<sup>9</sup> Source: Google, Facebook and New Zealand news media: The problem of platform dependency, Sept 2018, Merja Myllylahti, Co-Director, Journalism, Media and Democracy Research Centre, AUT (2018)

Opportunities:

- Create agreed conditions for the monetisation of news on search and social media platforms

Risks

- Requires either a regulator or a mandated industry entity capable of enforcing the code
- Identifying and securing agreement with which platforms and news organisations should be covered by the code

### Option 3. Market study

The Government can ask the Commerce Commission under recently enacted legislation to conduct a 'market study' into the platforms' market power and impacts on competition in the news business, and to compel commercially sensitive evidence in doing so.

Opportunities:

- Improve knowledge and surface options for curbing platform market power, drawing on international precedents, but producing a NZ-specific understanding and options
- Potential to 'level the playing field' for news producers

Risks:

- Scope creep – would this be a reader-side or advertiser-side market study, or both?
- Time-consuming/source of delayed action – market studies are mandated to take a year to complete and are, for now, being conducted one at a time to reflect ComCom resourcing. Waiting for a market study outcome could delay policy initiatives that may not require the outcomes of a market study in order to be justified.

### Option 4. Impose a 'News Quality obligation' on platforms

In the UK and Australia, existing regulatory agencies are available for such an initiative. In the absence of a mandated media regulatory agency in NZ, it is less clear how a news quality obligation could be either negotiated or enforced.

Opportunities:

- Assists with public media literacy
- Shapes debate around the importance of public interest and high quality journalism

Risks:

- Requires a regulator
- Definitions of quality and public interest may not be universal – open to accusations of elitism or political bias

### Option 5. Media literacy initiatives

'Plurality' of media voices is highly valued and was the reason the NZME/Stuff merger was disallowed by the Commerce Commission. However, a cacophony of easily accessed, alternative news sources exposes media consumers to growing potential to be misled and misinformed. Media literacy initiatives may assist a more discerning news-consuming public.

Opportunities:

- Deliver through high school curriculum
- Deliver through online channels to adult population

Risks:

- May be costly to both sustain and be impactful
- Some New Zealanders may regard guidance on media literacy as an attempt by the state to impose particular personal and political views and/or a waste of public funds

## Option 6. Targeted government funding for public interest journalism

NZ On Air and RNZ are already experimenting, through the Local Democracy Reporting initiative, which is piloting funding of public interest coverage of local government. Court, Maori, and minority community reporting are also potential candidates for such reporting. Longevity and adequacy of any such funding will be critical to its success. Funding should target subject matter and arrangements that are likely to prove sustainable over time rather than seeking to favour any particular news provider.

### Opportunities:

- NZ On Air, Science Media Centre, Asia Media Centre, and Te Mangai Paho already exist as examples of ways that government funding encourages higher quality public interest journalism in particular areas.
- RNZ/NPA/ NZ On Air pilot programme for local government reporters is commencing late 2019. If successful –
  - multi-year rather than year-by-year funding is likely to be required to give the programme, journalists and their employers certainty
  - extend to court and other identified areas that are under-serviced (e.g., public health, science reporting)?
  - consider whether government funding for young journalists' employment and professional development can be added?
  - A key concern among editors at present is an ageing workforce and the widespread view that journalism is not an attractive career option
  - Government careers advice should stop discouraging students from considering journalism as a career – early, easy win?
- Contestable fund for investigative journalism projects, such as those currently supported by NZ On Air
- Further explicit support for broadcasting and journalism in te reo Maori and for the coverage of Maori public interest issues, e.g., Maori Land Court, performance of iwi incorporations, coverage of Maori public policy initiatives (e.g., Whanau Ora, Kohanga Reo);

### Risks:

- Funds should be administered by a dedicated government agency that funds journalism and is an independent entity, separate from any regulator
- Must be arms-length from political influence
- The primary focus should be on the provision of public interest journalism, regardless of whether funding decisions inherently help to sustain new or existing business models.

## Option 7. Google and Facebook could be encouraged to extend funded digital journalism initiatives to the NZ market, perhaps using threat of regulation

Google and Facebook are increasingly investing in news-gathering and digital monetisation initiatives aimed at assisting news businesses. They have shown greatest interest in doing this in markets where regulation is threatened. NZ has yet to indicate any such threat and, as Myllalahti notes (above), none of those initiatives is actively promoted to NZ news businesses.

## Option 8. Tax relief

Charitable status for philanthropic funders of public interest journalism appears worth exploring. Other options, particularly zero-rating journalism for GST, appear problematic.

## 8.1 Establishing charitable status for philanthropic funding of public interest journalism

### Opportunities:

- Lowers the cost of funding some journalism
- Simplicity of implementation – legislation, including prohibitions on political advocacy, already exists

### Risks

- News organisation editorial capture by a philanthropic funder
- When does a philanthropically funded news business become a successful commercial entity?

## 8.2 Extend R&D tax credit regime to innovations in digital journalism

### Opportunities:

- Lowers cost and barriers to new, experimental investment for news businesses

### Risks:

- Most innovations are likely to be built on existing software and business models rather than being true ‘new discovery’ r&d
- Other sectors that would also benefit from such an approach might seek inclusion of their non-novel r&d
- Strong rationales would be required to treat journalism this way but not, for example, non-novel advances in machine learning or AI

## 8.3 GST zero-rating

NZ governments of all stripes have consistently resisted calls for GST zero-rating on food and other essentials, on grounds of tax simplicity and comprehensiveness. It is hard to see a different view emerging on news products.

## Option 9. Stable and adequate funding for public broadcasters

The desirability of this outcome appears already to be acknowledged by the Government, although funds granted to RNZ in the 2019 Budget after a seven-year funding freeze were little more than catch-up funding.

## Option 10. Stay in step with international developments

The challenges to journalism posed by digital platforms are global. New Zealand is highly unlikely to be successful in tackling those problems alone. Note, for example, that while some media owners have called for a specific ‘public media levy’ on major platforms, neither ACCC nor Cairncross have supported this approach.

Adopting best practice, common cause and, where practical, joint approaches to regulation and public interest journalism funding should be fundamental to any policy response to these issues from New Zealand.

## APPENDIX

Community newspaper closures 2017-18 (source, Newspaper Publishers Association):

- Hastings Mail
- Bay News, Tauranga
- Napier Mail
- North Waikato News
- The Tribune
- Waiheke Marketplace
- Wairarapa News
- Rotorua Review
- Ruapehu Press
- Admire Marlborough
- Christchurch Mail
- Admire Nelson
- Invercargill Eye
- South Canterbury Herald
- NZ Farmer
- Canterbury Farmer
- Central District Farmer
- Otago Southland Farmer
- Waikato Farmer
- NZ Dairy Farmer
- Selwyn and Ashburton Outlook
- Queenstown Mirror
- Wanaka Mirror
- Whangarei Report
- Waitaki Herald

In addition, some regional titles have begun reducing the number of weekly editions, e.g., Nelson Mail (six days to four), Marlborough Express (six days to three) and Oamaru Mail (five days to once a week). Stuff senior management has suggested that some long-standing regional titles are also on the brink of being closed.