

## **Response to Court of Appeal's decision on StuffMe**

The Better Public Media Trust (BPM) welcomes the Court of Appeal's decision to uphold the determination of the Commerce Commission declining to authorise the NZME-Stuff merger.

BPM believes the Court has made absolutely the right decision.

Allowing the merger to proceed would have seen the formation of a huge news media operation controlling 90 percent of the daily print news market, half the commercial radio sector and our two largest news websites.

BPM Chair and Victoria University senior lecturer in media, Peter Thompson said "It is a relief that the Court of Appeal has upheld the Commission's earlier ruling. Fairfax and NZME had put forward a quite cynical argument that non-quantifiable factors such as plurality and editorial independence could not be taken into consideration under the Commerce Act. The latest ruling underlines the fact that the Act is there to protect the interests of the New Zealand consumer, not the interests of corporate shareholders."

BPM nevertheless believes the Commerce Act needs to be reviewed in order to protect the public interest, especially in regard to an increasingly complex media ecology.

"This kind of merger proposal would have been unthinkable in most other countries. New Zealand's weak legislation invites big media companies to hire teams of lawyers and economic experts to try to push through legal rulings that are against the public interest," said Thompson.

However, BPM does recognise the problem that NZME and Stuff said was the primary reason for the merger - that the print news media are under threat because nothing has been done to redress the impact of online media like Google and Facebook on the news sector's business models.

"One of the main reasons NZME and Stuff wanted the merger was because their revenue streams have been eaten away by digital intermediaries, which co-opt online traffic and advertising dollars, but invest nothing back into content production. New Zealand needs a regulatory framework that can solve this problem while protecting the public's democratic and cultural interests."

BPM therefore calls on Kris Faafoi in his dual role as Minister of Broadcasting, Communications and Digital Media as well as Consumer Affairs, to review New Zealand's competition law and to look at ways of ensuring that online intermediaries which exploit NZ media content contribute to the provision of that content.

One option which BPM has suggested previously, would be a marginal levy on online advertising which could then be redistributed to NZ content providers.