



Hugh Marks
CEO
Nine Entertainment Company

By email

August 10 2018

Dear Mr Marks,

Proposed Merger of Nine and Fairfax

I am writing to urge the parties to your proposed merger to seek a formal authorisation for the merger from the Australian Competition and Consumer Commission (ACCC) pursuant to Part VII of the *Competition and Consumer Act 2010 (Cth)*.

As you know, Nine and Fairfax are seeking the largest merger in Australian media company history. It is also the first major transaction to follow the relaxation of the cross-platform media ownership laws in 2017.

There is immense public interest in the proposed merger and the significant implications that it will have on the future of Australian media. For this reason, it is critical that:

- The merger parties provide detailed information about the merger to the ACCC and the public;
- The ACCC gives extensive consideration of the merger against s50 and Part VII of the *Competition and Consumer Act 2010 (Cth)*;
- The ACCC provides the public with opportunities for consultation and the making of submissions; and
- The ACCC provides detailed reasons for its draft and final determination in relation to the merger.

MEAA understands that what is presently contemplated by the merger parties, and the ACCC, is an informal merger review. An informal merger review is not underpinned by legislation, is more opaque in terms of the issues raised and scrutinised, and as the name suggests, lacks the requisite formality of a process that will, in this instance, substantially reshape the Australian media landscape.

MEAA believes that a formal authorisation process will result in far greater transparency for the public, including the affected employees, about how the merged entity will be managed and what the merger will mean for Australia's already decreasing level of media diversity, and the corresponding risk of further market concentration.

Some of the matters that could be better addressed through an authorisation process are:

- How the approximately 7000 employees affected by the merger will be allocated across the combined organisation;

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- The continuing provision of media content to regional and rural communities through print, television and radio following the merger, noting comments that regional publications may not continue following the merger¹;
- Where and whether media resources will be merged and centralised;
- How the combined reach of five television stations, approximately 170 news titles and eight radio stations will comply with section 61AB of the *Broadcast Services Act 1992* (i.e. the four and five voices rule);
- How editorial independence (including through the *Fairfax Media Charter of Editorial Independence*) will be enshrined across editorial operations; and
- How changing technology will influence the merged company's structure.

A formal authorisation process can also consider how Fairfax's five metropolitan daily publications, 16 community newspapers, 135 regional titles, 21 agricultural publications and associated websites will be preserved and integrated in the merged structure.

Of course, together with making a more transparent case for the proposed merger, the merged entity would receive the benefits of certain immunities from suit under the *Competition and Consumer Act 2010*.

The employees affected by the proposed merger and the Australian audiences of Nine and Fairfax deserve maximum scrutiny of this proposal. I trust that you will give our request due and fair consideration.

Yours sincerely,



Paul Murphy
MEAA Chief Executive

*Cc Mr Rod Sims
Chairman, ACCC*

*Mr Greg Hywood
Managing Director, Fairfax Media*

¹ MEAA notes your comment, in response to a media question about the future of regional newspapers, that it would be "no surprise" that Nine would focus "on what we see as the high growth component of what this deal provides... Other businesses that are not as high growth may be better off serviced in some other environments." See: [*Nine hints it will shut down regional newspapers in Fairfax takeover*](#), New Daily 26 July 2018