

**Submission by the**  
**Media, Entertainment and Arts Alliance**  
**to the**  
**Australian Competition and Consumer Commission**  
**Re: Seven West Media and News Corporation**



The MEAA is the industrial and professional organisation representing the people who work in Australia's media and entertainment industries. Its membership includes journalists, artists, photographers, performers, symphony orchestra musicians and film, television and performing arts technicians.

*ERIC BEECHER: They are heading towards the cliff and it's not their fault but they are heading towards the cliff really fast ... I think that cliff is, for everybody, is within a year or two or less.*

— Eric Beecher, Chairman, Private Media

(Media Watch, ABC, June 13, 2016)

As Media Watch presenter Paul Barry pointed out in Monday's program, it's not just newspapers, the so-called "legacy media", hurtling towards that metaphorical cliff, but digital news sites are also struggling to survive and public interest journalism is seriously at risk. Eric Beecher's dire prediction is that in a year or two's time, people will wake up and half to two-thirds of the important journalism that has kept power accountable won't exist.

The program was a timely wake-up call that the real threat of competition facing the media in Australia in their struggle to survive, let alone grow, in a digital world is from Google and Facebook, whose digital advertising revenues in Australia grew by \$1 billion last year, according to Morgan Stanley, while overall digital revenue shrank by \$700 million. (ibid)

It is against this depressing backdrop that the ACCC is now considering the proposal for News Corp Australia (**News**) to sell The Sunday Times newspaper and PerthNow website in Western Australia to Seven West Media (**SWM**).

This submission is made on behalf of Media Section of the Western Australian branch of the Media, Entertainment and Arts Alliance (MEAA), which represents journalists, photographers and graphic artists who work for SWM's WA Newspapers (WAN) and News's print operations in Perth and who are all directly affected by this proposed transaction in one way or another.

We believe the sale will lead inevitably to job losses for our members and increased workload for those that remain in the Editorial sections of the consolidated operation. That concern has been echoed by West Australian Premier Colin Barnett. (The Weekend West, May 28-29, 2016, p 4)

We appreciate, of course, that the ACCC's decision on this proposed sale will not be determined by its assessment of likely job losses or increased workload, except in so far as that this might affect the quality of content provided to consumers.

Under the Informal Merger Review Process Guidelines (September 2013, p24), the parties are required to provide the ACCC with a rationale for the transaction, but the Commission has not shared that information with interested parties.

News has a well-known global commitment to print journalism, but has also been moving aggressively into the online space through a series of acquisitions, such as Storyful and Unruly. (<http://newscorp.com/business/storyful/>)

News has not publicly explained its rationale for selling The Sunday Times and effectively pulling out of Western Australia. One can only assume that its reasoning is that maintaining a dedicated printing facility, Perth Print, and a large staff for a once-a-week publication and PerthNow is no longer sustainable, even for a company with pockets as deep as News, whose share price yesterday was \$16.30 ("News Corp to sell Sunday Times to Seven West Media", The Australian, May 27, 2016, <http://www.theaustralian.com.au/business/media/news-corp-to-sell-sunday-times-to-seven-west-media/news-story/b6382a774b4e272ca1d7927dde20161a>)

Our assessment is that this is a case where the dominant player in tabloid newspapers nationally has a “distressed asset” that it wishes to sell in a discrete market where the dominant player, SWM, wishes to become more dominant.

Clearly, for SWM, the merger provides economies of scale, especially in its printing operations and it diversifies risk in a shrinking market for its print products.

*We’re a six-day publisher now. This rounds out the seven days. We’ve got excess printing capacity and it makes sense.*

-- Chris Wharton, CEO, Seven West Media WA (*Channel 7 News, May 27, 2016*)

The ACCC points out in its Informal Merger Review Process Guidelines (p5) that such mergers and acquisitions are important for the efficient functioning of the economy.

*They allow firms to achieve efficiencies, such as economies of scale or scope, and diversify risk across a range of activities. They also provide a mechanism to replace the managers of underperforming firms.*

In a statement to the Australian Stock Exchange on May 27 announcing the proposed merger, SWM said the company “expects the investment to be earnings accretive in its first year and to increase shareholder value for Seven West Media”. SWM’s share price has risen since the announcement from \$1.065 up to \$1.215 and stood at \$1.16 yesterday. (<http://www.asx.com.au/asx/research/company.do#!/SWM>)

The SWM statement also said the deal would “deliver benefits to advertisers”, with “better solutions” for clients. It made no mention of readers.

### **Concentration of ownership**

The News corporate website claims:

*The Sunday Times & PerthNow are part of the fabric of life in WA. We are [sic] engage with more than 1.5 million readers every month. Covering in-depth local, national and international news and sport, as well as a range of targeted lifestyle features, we serve up more content in more consumer categories than anyone else in WA. This means our readers get more of the content that really matters to them and advertisers get access to highly engaged audiences in a range of targeted categories and segments.* (<http://www.news corpora australia.com/brand/sunday-times-perthnow>)

SWM, in its advertising rate card for 2015-2016, claims:

- 1.7 million cross-platform readers every month.
- In print, The Weekend West is the second highest-selling Saturday newspaper in the nation, with 624,000 readers
- 71 per cent of West Australians access the masthead each month (<http://www.ratecard.thewest.com.au/index.php/circulation-a-readership>)

Taking over Perth’s only Sunday paper would give SWM, which also owns the highest rating television station in WA, Channel 7, a remarkable audience reach. SWM also owns the Kalgoorlie Miner, the Albany Advertiser, GWN and numerous regional papers, giving it a state-wide influence.

SWM also has almost half ownership, with News, of Community Newspapers Group, which distributes free weekly newspapers throughout the Perth metro area.

However, circulation of The West Australian and The Sunday Times is falling. The Monday-to-Friday print sales of *The West Australian* fell by 8.6 per cent to 140,611 for the March quarter, according to the Audit Bureau of Circulation. *The Sunday Times* circulation for the same period was 182,284, down by 7.8 per cent year on year. (“News Corp to sell Sunday Times to Seven West Media”, *The Australian*, May 27, 2016, op. cit.)

If print sales continue to fall at the same rate, both papers have a life expectancy of less than 10 years (whoever owns them). If Eric Beecher is correct, that event horizon might be far closer than those figures suggest.

### **Competition**

The proposed transaction would make Perth a “one-newspaper” town. By its very nature, the sale will lessen competition between The West Australian, particularly The Weekend West, and The Sunday Times if they are merged into one entity with shared staff and resources.

The Sunday Times and The West Australian are both “vigorous competitors”.

As one shining example, it should be remembered that the “WA Inc” royal commission, which resulted in senior state political figures going to jail, was established in late 1990 as a direct result of The Sunday Times’s “exclusive” disclosures about the so-called “Stirling City bribe tape” scandal.

It should also be acknowledged that without journalists at The West Australian following up on the story with gusto, the State Government might not have buckled under the pressure and the royal commission would never have happened. ([https://en.wikipedia.org/wiki/WA\\_Inc](https://en.wikipedia.org/wiki/WA_Inc). To see The Sunday Times’s role in exposing the “bribe tape”, see Report of the Royal Commission into Commercial Activities of Government and Other Matters, Part I, Volume 6, [http://www.parliament.wa.gov.au/intranet/libpages.nsf/WebFiles/Royal+Commission+commercial+activities+of+government+vol.+6/\\$FILE/vol+6.pdf](http://www.parliament.wa.gov.au/intranet/libpages.nsf/WebFiles/Royal+Commission+commercial+activities+of+government+vol.+6/$FILE/vol+6.pdf))

The papers are also “vigorous competitors” when it comes to MEAA’s annual WA Media Awards and staff from both news organisations dominate the winners’ list each year. <http://www.wamediaawards.com.au/2015-awards/>)

The very fact that WAN rebadged its Saturday paper as The Weekend West demonstrates unequivocally that they see themselves as competing directly against The Sunday Times over those two days, particularly in relation to delivering advertising to consumers.

It is hard to see where the competition will come from to take on a combined entity.

One way to create a more competitive environment would be for the ACCC to impose enforceable conditions on the transaction to ensure that each paper has a dedicated staff cohort within the combined enterprise, rather than staff being randomly assigned a shift on any of the papers in the WAN stable.

To show that this works we have to look no further than The West Australian and Daily News back in the days when they were both owned by the Herald & Weekly Times Group. While occupying the same building, across the hall from each other, the two publications were “vigorous competitors” despite having the same owner.

We have competition concerns about the “non-exclusive” licence for content sharing, which is not, on our reading, a straightforward two-way street between News and SWM.

Under the terms set out in the Market Inquiries Letter (p5), News will provide only “certain content” (excluding material from *The Australian*) to WAN.

In contrast, SWM will provide “Western Australia print content” to News. We take that to mean, in the absence of the word “certain”, that News can take any and all content from SWM’s print publications for use in its “Australian print publications”, which will obviously include *The Australian* because the terms do not specifically exclude News’s flagship national paper.

We see a potential for this to mean that *The Australian* might abandon or at least reduce the size of its WA bureau, again having the effect of reducing the current competitive pressure for exclusive content creation between journalists employed at The Australian’s Perth bureau and those employed by The West Australian.

Because this content sharing agreement is “non-exclusive”, other media players who might want to enter the WA print market and compete against SWM (despite what we see as the impossibly high barriers to entry) could potentially strike such an agreement with News.

However, we don’t believe that it is “non-exclusive” to allow for that eventuality, but is simply a mechanism for neutralising the ACCC’s concerns about “exclusive” content sharing being anti-competitive.

### **Consumers and advertisers**

We believe readers will suffer from a reduction in the quality of content, perhaps in both print publications, if staffing levels are reduced and journalists, photographers and artists have to do more with less (something that is already happening across the media industry).

Currently, we believe some 25-30 per cent of readers of The Sunday Times do not buy The Weekend West, so in a very real sense the Sunday paper is a substitute for the Saturday edition of The West Australian.

Under the merger proposal, there is an added risk that the Sunday paper might become homogenised with the weekday or Saturday publications of WA Newspapers (WAN) and therefore not be a satisfactory substitute for this section of the market.

While ABC TV and ABC Radio are a competitive source of local news in WA and Fairfax competes, to a lesser extent, via WAtoday.com.au, they are not a real substitute for the strength and breadth of coverage by The West Australian or even the once-a-week The Sunday Times, particularly in relation to general news and sport. Print still drives the news agenda on most days, notwithstanding its declining audience footprint.

Advertisers, who currently benefit from competition on price between the two outlets, will see a rationalisation, at least, of the rate card because of the consolidation of the two businesses and could end up very much worse off if rates rise because of a captive market.

This is particularly true of display advertising, where The Sunday Times provides a substitute vehicle for advertisers, especially in the glossy STM magazine. (Classified advertising in print is at such a low level, we believe, to be essentially irrelevant in this context.)

### **Public interest and editorial independence**

The proposed transaction would create business and media power in WA that is not replicated in any other part of Australia.

It will put incredible power in the hands of one mogul, Kerry Stokes, whose business interests in WA extend far beyond the media to include property investment, land development, oil and gas exploration, iron ore mining, iron ore project development and mining equipment supply/repairs. This involves commercial relationships with major mining groups and fellow entrepreneurs.

SWM shareholders and senior executives are also heavily involved in the Perth business scene at large and in dealings with the State Government. These dealings not only involve the customary regulatory approval and lobbying that is normal business practice, but also include attempts to acquire significant assets or significant contractual benefits through those dealings with the State Government.

There is an obviously greater potential for problems in objectively reporting or analysing these business activities, especially involving government, when that same group controls all the daily newspapers in town.

We suggest that the ACCC might impose as a condition that SWM enter into some sort of charter of editorial independence to tackle this potential problem.

### **Diversity**

There would be a threat to the diversity of news and opinion in WA if SWM gained control of The Sunday Times. Regardless of the merits of either newspaper's approach at various times to covering, say, politics and business, the two papers under different owners have ploughed their own furrow. The different approaches allow the news agenda of WA to have a variety of major influences and influencers.

Take fatal shark attacks as a simple and very topical example. As MEAA WA Media Section president Martin Turner pointed out to Crikey back in March, *The Sunday Times* can, and does, take a different stance on local issues on Sunday to the six-day commentary of WAN.

*There have been numerous reports of swimmers killed by sharks in Western Australia in recent years, and the question of what to do about the issue has divided the community. The West Australian editorialised in favour of shark culls. The Sunday Times took a more, well, pro-shark attitude. "It was a very grassroots issue in WA, and quite a strongly divisive one," Turner said. "But you had some nuance in the discussion, because we had different news organisations giving different things prominence."*

("Stokes' mooted Murdoch deal could ruin WA media diversity: Want the news in WA? Ask Kerry", March 15, 2016, <https://www.crikey.com.au/2016/03/15/stokes-mooted-murdoch-deal-could-ruin-wa-media-diversity/>)

Let's stick with sharks. After two fatal attacks in a matter of days earlier this month *The West Australian* ran a page one splash using a photomontage of a boy and a girl playing in the surf with a shark fin heading towards them, under the heading "THE SHARK CULL DEBATE: WILL IT TAKE THIS?"

(The West Australian, June 8, 2016, p1). The picture sparked heated discussion on social media and talkback radio.

In contrast, The Sunday Times provided space last Sunday to an opinion piece by chief reporter Trevor Paddenburg, a keen surfer, in which he referred to the “media hype and political hyperbole” about shark attacks, pointing out he had a far greater chance of being killed driving on country roads from Margaret River to Perth every week than he did paddling out in the surf at Gracetown. (“Science is my great hope for sea safety”, The Sunday Times, June 12, 2016, p7; <http://www.perthnow.com.au/news/western-australia/wa-shark-attacks-science-the-great-hope-for-sea-safety/news-story/fd47b094595fbd0587ac860233f69f59>)

This incredibly divergent view, which also ran online, would likely disappear under SWM ownership of *The Sunday Times* and PerthNow, unless the newspaper and website continue to have different editors and separate staff to those running WAN’s current stable of publications.

In terms of giving a voice to different viewpoints, Channel 9 Perth newsreader and veteran journalist Liam Bartlett writes a weekly column for The Sunday Times in which he covers important local issues in an engaging and often provocative way. Given the fierce competition between Seven and Nine, there seems little likelihood that the Nine network and commentators such as Bartlett would get much oxygen in a SWM-controlled print universe.

### **Viability**

The Sunday Times is currently backed by the resources of News Corp. The Sunday paper is heavily integrated into the News Corp national copy generating, production and advertising sales network. The advertising sales provide revenue streams that are often unavailable to The West.

In a very real sense, SWM is brave to take on The Sunday Times in the current climate for “legacy” print publications and what is euphemistically described as a “challenging” market for advertising. There is clearly long-term potential for a detrimental effect on the company’s bottom line, notwithstanding the comments from management about the deal being profitable within the first year.

The content sharing and advertising tie-up that is envisaged if the transaction proceeds only lasts for four years and one year, respectively. We question what will happen after those terms expire and what effect a non-renewal of those agreements will have on the viability of the SWM business model on which this transaction is predicated.

This is particularly true of PerthNow that relies heavily on content generated by news.com.au, but that content is explicitly excluded from the content agreement and therefore will not be available to an SWM-owned PerthNow.

### **Conclusion**

We believe that the proposed transaction will likely have the effect of substantially lessening competition, as set out in Section 50 of the Act, particularly without the imposition of enforceable conditions that provide a reasonable level of editorial independence from the start and that the

newly acquired masthead and website are not simply subsumed and homogenised into The West Australian and the west.com.au.

Despite this belief, we also have a distinct feeling of déjà vu and take you back to 1990 when WAN proposed to buy back the independently owned Daily News, a proposal that we as journalists supported, to keep the financially ailing newspaper afloat. That merger was famously opposed by the ACCC and the Daily News promptly closed.

News has not revealed a “Plan B” for The Sunday Times and PerthNow if the current sale proposal is opposed by the ACCC.

However, we have grave doubts, in the absence of explicit assurances to the contrary, that News will continue to support the operations of The Sunday Times, PerthNow and Perth Print, even in the short term, rendering “competition” issues a moot point.

Our clear aim is to keep The Sunday Times and PerthNow in the marketplace, employing our members, and providing quality journalism that informs, engages and entertains West Australians and “speaks truth to power” without fear or favour, whoever owns them.

In light of SWM and News’s joint ownership of Community Newspaper Group and their commitment to content sharing in this proposal (albeit for four years only), we are surprised that the two organisations have not considered creating another joint venture vehicle to take over The Sunday Times and Perth Now. Such a venture might go a long way to alleviate the competition concerns we, and no doubt others, have aired in submissions to the ACCC.

It would be open, perhaps, for the parties to go down that path if the ACCC were to oppose the merger in its present form.

Economies of scale are also available through shared printing facilities or printing and production contracts. SWM and News are already negotiating printing and distribution contracts that should reduce cost pressures on both businesses.

Other legitimate sharing or outsourcing arrangements could also be pursued, without reducing competition and without News having to sell The Sunday Times.

Submitted on behalf of:

The Media Section committee  
WA Branch  
Media, Entertainment and Arts Alliance  
Suite 1, 12-14 Thelma Street  
West Perth  
WA 6005

Contact: Tiffany Venning, Regional Director  
[Tiffany.venning@meaa.org](mailto:Tiffany.venning@meaa.org)

Phone: 0403 440 266



June 17, 2016