



**SUBMISSION TO THE SENATE ENVIRONMENT AND COMMUNICATIONS LEGISLATION COMMITTEE
INQUIRY INTO THE *BROADCASTING LEGISLATION AMENDMENT (MEDIA REFORM) BILL 2016***

21 MARCH 2016

News Corp Australia appreciates the opportunity to make a submission to the Senate Environment and Communications Legislation Committee regarding the *Broadcasting Legislation Amendment (Media Reform) Bill 2016* (the Bill).

We are of the view that the current legislative framework governing media ownership and control is anachronistic as the market and technological developments have delivered massive changes in the media environment and delivered enormous choice to consumers. Accordingly, we support a holistic approach to media reform in Australia, whereby the Government should pursue the removal of all five media ownership and control rules – the 75% reach rule, the 2 out of 3 rule, the 5/4 rule, the one to a market rule, and the two to a market rule.

For the same reasons – that the era when media rules were put in place has been overtaken by the internet revolution rendering the rules no longer relevant or fit-for-purpose – we support changes to the anti-siphoning regime.

True reform of these two pillars of Australia's media laws (media ownership and control, and anti-siphoning) would significantly contribute to macroeconomic reform in Australia. While the Government states that the Bill incorporates measures to reform outdated media regulation, we are disappointed that this is limited to only two of the media ownership and control rules.

However, we support the Bill and what it seeks to achieve, and support the Bill passing both houses of Parliament intact and in its entirety.

The power is in the hands of consumers to decide their media consumption

The Explanatory Memorandum of the Bill¹ provides a number of data points to support the need for reform. We add to this by providing Nielsen data (at **Appendix A** to this submission) which illustrates consumer behaviour regarding consumption of news and information services. More than any other time in history, the power is in the hands of consumers to decide their media consumption.

Existing extensive regulatory provisions administered by the ACCC and FIRB

Along with the depth and breadth of consumer choice, it will remain the case that the existing extensive regulatory provisions administered by the Australian Competition and Consumer Commission (ACCC) and Foreign Investment Review Board (FIRB) will continue to be applied to media transactions.

¹ http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r5635_ems_c0a01f51-a8ac-43d2-895f-2d7c4f6e9790/upload_pdf/445560.pdf;fileType=application%2Fpdf

i. ACCC powers

The ACCC has extensive powers to preserve media diversity in its administration of pro-competition laws, namely section 50 of the *Competition and Consumer Act 2010*. In administering these pro-competition laws the ACCC effectively has powers that preserve media diversity.

As ACCC Chairman Rod Sims said in February this year²:

'Under the competition laws we look at diversity as much we look at price. People often think with mergers that we are just making sure two competitors are not making a market less competitive and making prices go up.

But don't overlook the fact that Section 50 can deal with "diversity" as well as with price. I think people don't have that top of mind all the time.'

ii. FIRB powers

In addition, Australia's foreign investment review process, the *Foreign Acquisitions and Takeovers Act 1975* makes significant mergers involving foreign persons subject to a national interest test. Media is a sensitive sector for foreign investment review purposes. Section 55 of the *Foreign Acquisitions and Takeovers Regulation 2015* requires that all foreign persons need to notify the Government and get prior approval to make an investment of 5 percent or more of an Australian media business, regardless of the value of the investment.³

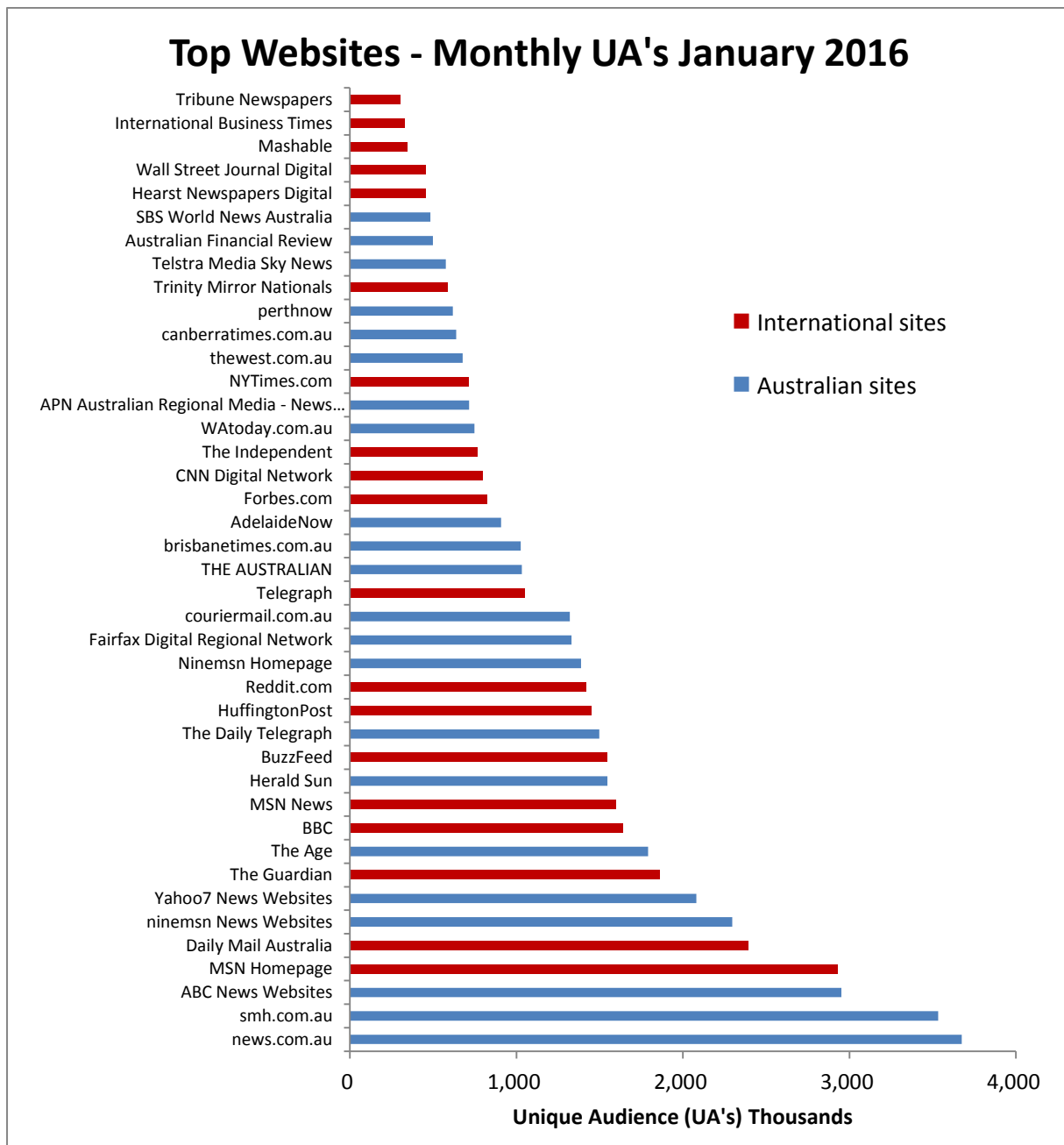
For these sound reasons we support the Bill.

² <http://www.smh.com.au/business/media-and-marketing/accc-addresses-fears-over-news-corp-expansion-20160125-gmdmcp.html>

³ FIRB Guidance Note 25, *Investment in Media*, <https://firb.gov.au/resources/guidance/gn25/>

APPENDIX A – Nielsen Online Ratings Data, January 2016 (category: news and information)

- There are 41 news websites with over 300,000 unique visitors/month
 - o Of those 41 news websites 19 (46%) are 'international' or not 'traditional (Australian)media companies'
- 22 (54%) of the news websites have an audience in excess of 1 million unique visitors per month
 - o Of those 22 websites, 9 (41%) are not traditional (Australian)media companies
- Of the top 10 news websites there are:
 - o 4 (40%) are not traditional (Australian)media companies
 - o 1 is the ABC
 - o The remaining 50% (5) websites – are linked to traditional (Australian) media companies



Note: desktop only, does not include mobile and tablet use