



Jeonju Paper Corporation

Investigation concerning newsprint from France and Korea

Alleged material injury to the Australian newsprint industry, and its causation

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A Introduction

On 22 April 2014, the Anti-Dumping Commission (“ADC”) published Anti-Dumping Notice No 2014/34 (“ADN 2014/34”), which officially initiated a dumping investigation into newsprint in roll or sheet form having a weight within the range 40 grams per square meter (“gsm”) to 46 gsm (inclusive) and brightness below a measure of 70 ISO (“newsprint”) exported to Australia from France and the Republic of Korea.

ADN 2014/34 explained that the Australian industry, Norske Skog Industries Australia Limited (“the Applicant”), had alleged in its application (“the Application”) that newsprint from France and the Republic of Korea had been imported at dumped prices and that this had caused the Australian industry material injury through:

- lost sales volumes;
- price undercutting;
- price depression;
- price suppression;
- reduced profit and profitability; and
- reduced revenues.

Without detracting from the primary position of our client, Jeonju Paper Corporation (“Jeonju”) - ***which is that it has not exported newsprint to Australia at dumped prices*** - this submission is provided to establish that the exportation of newsprint by Jeonju has not caused material injury to the Australian industry.

This submission explains that any injury suffered by the Applicant is as a result of:

- a decrease in demand for newsprint in markets where Jeonju did not compete;
- factors unrelated to price or dumping in the main market where Jeonju did compete;
- Australian newspaper publishers (being the primary purchasers of newsprint) using their market power to drive prices down, as a natural competitive reaction to the decreased demand for their products; and

- cost impediments uniquely applying to the Applicant and its production.

In so doing we start from the premise that competition is present in any market place, and that a finding of dumping does not automatically equate to an inference of material injury. The ADC is tasked to answer the question of whether dumping duty can be imposed. Considerations of cause and degree of injury are integral parts of the inquiry, and cannot be assumed. The assessment of injury must be made in a realistic and robust way, which accepts the reality of competition as a normal aspect of commercial activity, and which is unaffected by considerations of industry assistance and protection.

B Requirements of a material injury determination

Dumping is a form of price differentiation between two markets. It is not prohibited under international agreements. There is nothing illegal about selling low priced goods into the markets of a WTO member. In an economic sense, the supply of low priced inputs is usually of great benefit to the economy of the importing country. Nonetheless, it is only when dumped goods are found to have caused material injury to the domestic industry of an importing country that a WTO Member may impose dumping duties on their future importation.

The requirement that dumping needs to have caused material injury before measures may be applied is reflected in Article VI of the *General Agreement on Tariffs and Trade* (“GATT”), as implemented by Australia in Section 269TG of the *Customs Act 1901* (“the Act”). That Section requires that, before a dumping notice can be imposed, it must be established that exports of the goods under consideration have been dumped and, because of that:

material injury to an Australian industry producing like goods has been caused, or is being caused or threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered

Material injury is a fundamental condition precedent to the imposition of dumping measures on any given product.

The requirements of the injury analysis that an investigating body must fulfil are explained in Article 3 of the WTO’s *Anti-Dumping Agreement* (“the AD Agreement”). Our understanding of that Article must be informed by reports of the Panels and the Appellate Body under the *WTO’s Dispute Settlement Understanding*, which further explain an investigating authority’s responsibility in undertaking an investigation into allegations of material injury.

Article 3.1 of the AD Agreement is particularly relevant to injury analysis for two reasons. Firstly, Article

3.1 sets out the fundamental obligations of an investigating authority when undertaking an injury analysis. These fundamental obligations are to base the injury determination on positive evidence, and on an objective analysis of the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like goods, and the consequent impact of those imports on domestic producers of such products.¹ This has two implications for an injury determination:

- the requirement that a determination be based on positive evidence relates to the quality of the evidence that an investigating authority may rely upon in making the determination, and provides that the evidence must be affirmative, objective, verifiable and credible;²
- the term “objective examination” requires that an investigating authority’s examination must “conform to the dictates of the basic principles of good faith and procedural fairness”, and be conducted “in an unbiased manner, without favouring the interests of any interested party, or group of interested parties, in the investigation”.³

Secondly, Article 3.1 sets out the content required to make a full and proper injury analysis. This involves a consideration of:

*(i) the volume of subject imports; (ii) the effect of such imports on the price of like domestic products; and (iii) the consequent impact of such imports on the domestic producer of the like products.*⁴

According to the Appellate Body these three components set out the framework for any injury determination, and the other sub-Articles of Article 3 elaborate how these three components are to be assessed. Specifically, the Appellate Body has noted:

[Article] 3.2 ... concern[s] items (i) and (ii) above, and spell[s] out the precise content of an investigating authority's consideration regarding the volume of subject imports and the effect of such imports on domestic prices. [Article] 3.4... together with [Article] 3.5... concern[s] item (iii), that is, the "consequent impact" of the same imports on the domestic industry. More specifically, [Article] 3.4... set[s] out the economic factors that must be evaluated regarding the impact of

¹ Report of the Appellate Body United States – Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan (WT/DS184/AB/R) 24 July 2001, paragraph 192.

² *Ibid.* paragraph 192.

³ *Ibid.* paragraph 193.

⁴ Report of the Appellate Body China - Countervailing and Anti-Dumping Duties on Grain Oriented Flat Rolled Electrical Steel from the United States (WT/DS414/AB/R) 18 October 2012, paragraph 127.

such imports on the state of the domestic industry, and [Article] 3.5... require[s] an investigating authority to demonstrate that subject imports are causing injury to the domestic industry.⁵

Therefore, Article 3.1 sets out the basic considerations involved in an injury determination, and the subsequent paragraphs in Article 3 elaborate how these considerations are to be determined.

Following on from this reasoning, the volume of the subject imports and the effect of the subject imports are to be determined in accordance with Article 3.2, which provides:

With regard to the volume of the dumped imports, the investigating authority shall consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to the production or consumption in the importing Member. With regard to the effect of the dumped imports on prices, the investigating authority shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of a like product of the importing Member, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which otherwise would have occurred to a significant degree. No one or several of these factors can necessarily give decisive guidance.

The volume of the allegedly dumped imports is a factor for consideration, as well as the existence of price effects which can signal that the imports are having an effect on the domestic industry. Once the price impact has been determined, the investigating authority can then proceed to ascertain the impact of this effect on the domestic industry. This determination must be undertaken in accordance with Articles 3.4 and 3.5. Article 3.4 sets out the economic factors that must be evaluated regarding the impact of the dumped imports on the domestic industry, and Article 3.5 requires that an investigating authority show that material injury actually is being caused by dumped imports, and not by any other factor.

Article 3 of the AD Agreement sets out a clear and logical process for determining whether any relevant material injury has been suffered by a domestic industry. The Australian implementation of the Article – as set out in Section 269TAE of the Act - is not so well-structured. However, it is evident that the same logical process can and should be undertaken in its application, to be consistent with the AD Agreement which the Section implements.

Section 269TAE(1) essentially requires the Minister to determine whether material injury has occurred on the basis of the effect or likely effect of the importation of those goods. Sections 269TAE(1) sets out the

⁵ *Ibid.*

factors that should be considered in assessing the effects of the dumped imports.

Importantly, it must also be recalled that the assessment of injury must be done subject to the requirements of Section 269TAE(2A), which provides as follows:

In making a determination in relation to the exportation of goods to Australia for the purposes referred to in subsection (1) or (2), the Minister must consider whether any injury to an industry, or hindrance to the establishment of an industry, is being caused or threatened by a factor other than the exportation of those goods such as:

- (a) the volume and prices of imported like goods that are not dumped; or*
- (b) the volume and prices of importations of like goods that are not subsidised; or*
- (c) contractions in demand or changes in patterns of consumption; or*
- (d) restrictive trade practices of, and competition between, foreign and Australian producers of like goods; or*
- (e) developments in technology; or*
- (f) the export performance and productivity of the Australian industry;*

and any such injury or hindrance must not be attributed to the exportation of those goods.

We also note the publication of the *Ministerial Direction on Material Injury 2012*. The Direction itself correctly indicates that it must be read subject to the law. The Direction also provides:

- that “*identification of material injury must be based on facts and not on assertions unsupported by facts*”;
- the CEO (now the Commissioner) “*must have regard to the facts of the individual case*”, and “*identifying material injury depends upon the circumstances of each case and will differ from industry to industry and from time to time*”;
- “*the injury caused by dumping or subsidisation is material in degree*”;
- that material injury must be “*greater than that likely to occur in the normal ebb and flow of business*”; and
- that “*dumping and subsidisation need not be the sole cause of injury to the Australian industry*” however, “*whether dumping... is the sole cause of injury or where there are other contributing factors... the injury caused by dumping... must be material in degree*”.

The law and the Ministerial Direction require that *“injury caused by other factors must not be attributed to dumping”*. Injury caused by other factors cannot be ignored, and the injury caused by any proven dumping must be *“material”*, being *“not immaterial, insubstantial or insignificant”*. The injury caused by dumping must be greater than would otherwise have occurred in *“the normal ebb and flow of business”*. Furthermore, there must be evidence to establish that the injury has been caused by the existence of the dumped goods in the market.

Given that these factors require some degree of prognostication it is clear that the facts relied upon to establish this causation, as well as the materiality of the alleged injury, must be both accurate and adequate for the task.

C Jeonju only competes with the Applicant in a limited way

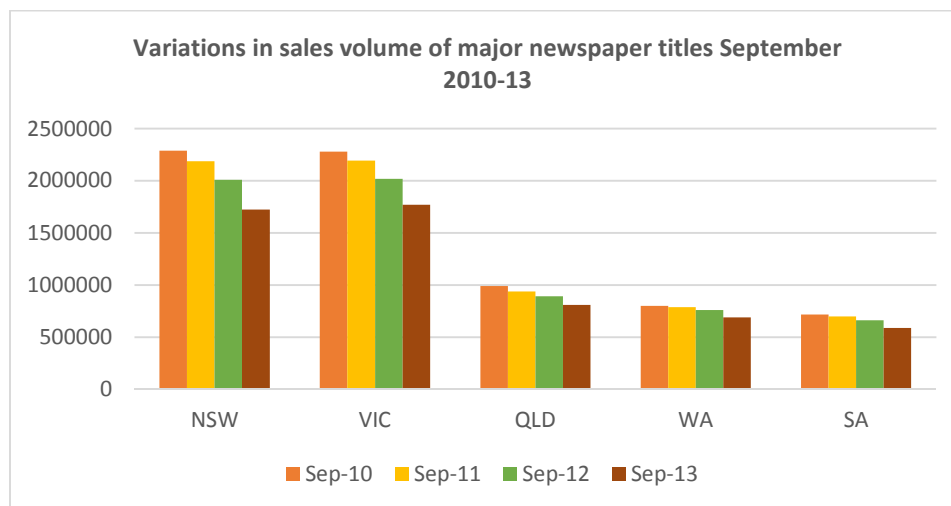
Under Section 269TAE(2A), in determining whether dumping has occurred, the ADC must consider contractions in demand or changes in patterns of consumption.⁶ Consideration Report No. 242 records the Applicant’s statement that the *“newsprint market has contracted over the last three years as newspaper circulation has declined.”*⁷

Jeonju agrees with this observation when considering the overall Australian “market”. But it is important to note that it is not accurate to speak in terms of one Australian “market”, nor to attempt to evaluate injury cause and effect in such a blunt - and ultimately inaccurate - way. Declines in newsprint sales have not been evenly spread across Australia. Separate areas, affected by their own particular conditions of competition, have trended differently.

As shown in Graph 1 below, whilst the larger metropolitan markets such as Melbourne/Victoria and Sydney/New South Wales suffered significant declines in newsprint usage over recent years, the decline was much milder in other markets, such as in Perth/Western Australia.

⁶ *Customs Act 1901* s 269TAE(2A)(c).

⁷ Consideration Report No 242, p 13.



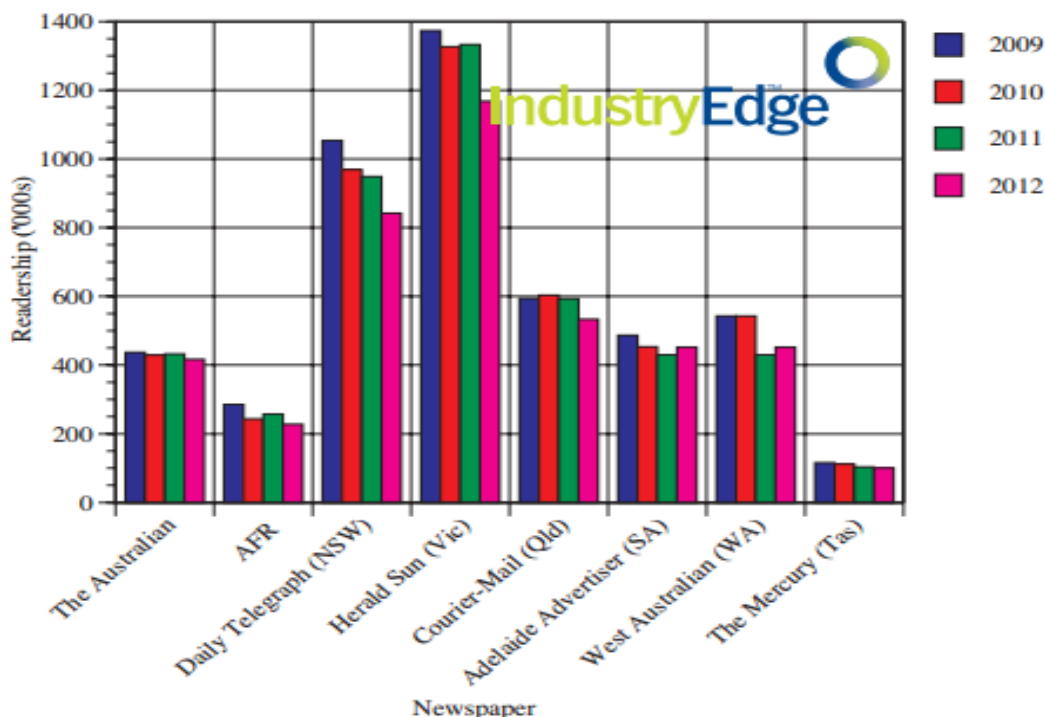
Graph 1

Source: circulation data released by Audit Bureau of Circulations⁸

Jeonju observes that while there has been a decrease in the demand for newsprint in all markets, it is the larger Australian metropolitan markets that have been the most affected. Circulation declined in New South Wales by 14% from September 2012 to September 2013, and in Victoria by 12% over the same period. Evidently market declines of these magnitudes would have had a greater impact on a supplier in New South Wales and Victoria, as compared to suppliers of newsprint to other markets that were not so drastically affected. Jeonju notes that the Applicant maintained almost 100% market share of the sales to the major newspaper publishers based in the most affected states of New South Wales and Victoria. Jeonju does not compete with the Applicant in those markets. The overwhelming majority of Jeonju's exports were made to the **[CONFIDENTIAL TEXT DELETED – sales arrangements]**.

The unevenness in the reductions in the size of the various markets is further highlighted in Graph 2 below. This graph shows that the most significant declines in major masthead readership all occurred in New South Wales and Victoria. These are markets solely dominated by the Applicant. By contrast, the major masthead readerships in the more competitive markets, such as Western Australia and South Australia, have experienced lower declines and even some growth in certain periods.

⁸ ABC Circulation, released on November 2011, November 2013 and February 2014. This data represents the September 2010-2013 periods of major metropolitan titles for each identified State.



Graph 2
Daily Readership of selected Mastheads: 2009-2012

Source: Pulp & Paper Edge Intelligence Report, Edition 92: November 2012, at page 13.

In order to assist the ADC’s understanding of the separate Australian newspaper markets and the competition (and non-competition) between the Applicant and Jeonju, Jeonju now provides a generalised summary of the current market segmentation for newspaper sales to major newspaper purchasers in each Australian State and Territory.⁹

Table 1 - Newspaper Market Segmentation (for 42gsm normal newspaper)

Newsprint Purchaser	Supply period	Newsprint Supplier	Share of Sales (%)
Australian Capital Territory			
[CONFIDENTIAL TEXT DELETED –purchasers, suppliers and share of supplier]			

⁹ Jeonju estimates based on Jeonju/Bong Yong International Pty Limited market intelligence.

New South Wales
[CONFIDENTIAL TEXT DELETED –purchasers, suppliers and share of supplier]
Northern Territory
[CONFIDENTIAL TEXT DELETED –purchasers, suppliers and share of supplier]
Queensland
[CONFIDENTIAL TEXT DELETED –purchasers, suppliers and share of supplier]
South Australia
[CONFIDENTIAL TEXT DELETED –purchasers, suppliers and share of supplier]
Tasmania
[CONFIDENTIAL TEXT DELETED –purchasers, suppliers and share of supplier]
Victoria
[CONFIDENTIAL TEXT DELETED –purchasers, suppliers and share of supplier]
Western Australia
[CONFIDENTIAL TEXT DELETED –purchasers, suppliers and share of supplier]

The data provided in this submission and in Jeonju's Exporter Questionnaire response demonstrates that the [CONFIDENTIAL TEXT DELETED – proportion] of Jeonju's export sales of the goods during the investigation period were made [CONFIDENTIAL TEXT DELETED – details of Jeonju customers]. Further, as indicated at Graph 1 above, the New South Wales and Victorian markets accounted for over 60% (and over 70% if the Queensland market is also included) of the total sales of major newspapers in Australia. The plain truth is that Jeonju did not compete with the Applicant in these major markets.¹⁰ Accordingly, any injury suffered by the Applicant in those markets, namely New South Wales and Victoria (and Queensland to a large extent) – which the data indicates to have accounted for the majority of the Applicant's sales of the goods under consideration in Australia during the investigation period - cannot be said to have any relationship with newsprint exported by Jeonju.

¹⁰ As indicated above and reported in the Exporter Questionnaire response, vast majority of Jeonju's exports were made to customers in [CONFIDENTIAL TEXT DELETED – export destination], which accounted for only about [CONFIDENTIAL TEXT DELETED – number]% of the total Australian major newspaper market

D No competition in the Applicant’s main markets

As stated above, Jeonju did not compete with the Applicant in the larger metropolitan markets - Brisbane, Melbourne and Sydney.¹¹ As can be seen from Table 1, Jeonju does not sell to the major newsprint users in NSW and Victoria (or for that matter in the ACT, the Northern Territory or Tasmania). One of the key reasons for the exclusion of Jeonju from those major markets in Victoria, New South Wales and (in the case of News Corp and Fairfax) Queensland is the so-called “skate” system arrangements that are in place between the Applicant and the major newspaper publishing groups in those markets.

A “skate” system is an automatic conveyer style loader which is not compatible with newsprint rolls from standard shipping containers. For the assistance of the ADC we have provided images below for the “skate” system from the Applicant’s submission to the Productivity Commission’s *Inquiry into Tasmanian Shipping Costs and Freight* (“the Productivity Commission submission”).



Figure 1: Skate loading systems at the Boyer Mill

¹¹ Jeonju does currently provide a [CONFIDENTIAL TEXT DELETED – commercial arrangement] however this does not in any way compete with the Applicant’s market share to major newspaper publishing groups. In addition to their status as the dominant supplier to the major newspaper publishers in the region, Jeonju understands that the Applicant also supplies the majority of the commercial printers.



Figure 2: Skate unloading

Source: Norske Skog Boyer, Submission No 39 to Productivity Commission, *Inquiry into Tasmanian Shipping Costs and Freight*, 17 December 2013, 8 and 11.

The installation and use of the “skate” system by major newsprint purchasers effectively shuts out newsprint exporters/importers from supplying those purchasers without substantial capital investment in logistics, technology and infrastructure.

The “skate” system and the arrangements between the Applicant and major newsprint purchasers in Brisbane, Melbourne and Sydney concerning the utilisation of that system exclude Jeonju, and indeed any prospective supplier whose deliveries are not compatible with that system, from supplying those purchasers. Accordingly any injury that the Applicant claims to have suffered in those major markets cannot be attributed to any alleged dumping.

E Competition with the Applicant in the [CONFIDENTIAL TEXT DELETED – sales areas]

In relation to the market where Jeonju’s exports did compete with the Applicant in a significant way, which is mainly in the [CONFIDENTIAL TEXT DELETED – sales arrangement], it is submitted that any “injury” which may have been suffered by the Applicant was not caused by “dumping”.

Most of Jeonju’s imports to the [CONFIDENTIAL TEXT DELETED – sales arrangement] were sold to [CONFIDENTIAL TEXT DELETED – customer/s identity]. [CONFIDENTIAL TEXT DELETED – customer/s identity].

Jeonju understands that the Applicant was the long term incumbent supplier of newsprint to **[CONFIDENTIAL TEXT DELETED – customer/s identity]**. However since then **[CONFIDENTIAL TEXT DELETED – market intelligence regarding newsprint supply arrangements]**. Based on Jeonju's market intelligence and information, in the latest round of tenders conducted by **[CONFIDENTIAL TEXT DELETED – customer identity and tender process]** Jeonju was ultimately successful in having a contract awarded to it. Jeonju's understanding is that this was due to the overall better quality, service and delivery of the newsprint provided by Jeonju. Indeed, Jeonju notes that cost must be a key consideration for any major newspaper publisher, however the major consideration is not necessarily the cost of the input itself but is the cost and efficiency of its usage. The better quality of Jeonju's newsprint in terms of printing performance, runnability, forward publishing, high yield, low dust and maintenance on the press all contribute to the reduction of its customers' newspaper production costs.¹² **[CONFIDENTIAL TEXT DELETED – commercial arrangements with Jeonju's customer/s]**. These supply attributes support and promote the most economical business operations of Jeonju's newsprint customers from the perspective of optimal cost and efficiency of production.

The competitiveness of Jeonju's newsprint product is due to the advanced and cost effective production technology employed by Jeonju. From a customer perspective, Jeonju's newsprint has more preferable qualities. Jeonju's newsprint has a high level of recycled content, at above 90%, as compared to the Applicant's virgin-fibre based production method which incurs higher energy and raw material costs. Jeonju also runs a soft nip calender in contrast with the Applicant's chilled calender method, which gives Jeonju's newsprint a better print surface. Jeonju's newsprint is thinner, and has better tensile strength, and better water absorption, in comparison with the Applicant's products. These characteristics provides greater production cost savings and benefit to the newspaper publisher in terms of:

- greater yields - less printing down time from reel changes;
- better keyhole inserting performance – less wastage due to better fibre flexibility;
- less wear and tear to the printing press due to low dust (as less wood fibre is used);
- less ink and water usage; and

¹² For example, **[CONFIDENTIAL TEXT DELETED – customer identity and information regarding customer's newsprint procurement arrangements]**

- more environmentally friendly.¹³

By contrast, the newsprint produced by the Applicant has a higher production cost in and of itself, and causes higher production costs for end users when taken up in their newspaper production.

Importantly, Jeonju's exports to the **[CONFIDENTIAL TEXT DELETED – sales arrangement]** markets are far more cost competitive in terms of logistics arrangements and cost of freight. This issue is highlighted by the Applicant itself in the submissions that it has made to the Productivity Commission. The Applicant has publicly stated that, despite receiving government freight subsidies, it suffers significant freight cost disadvantages by reason of its location and the exorbitant costs of the freight modes it uses. In transporting its newsprint, the Applicant has no alternative but to use sea freight to cross the Bass Strait, followed by Australian land transport to reach its customer sites.¹⁴ Evidently, this is an expensive process. Jeonju can ship its newsprint from Korea direct to **[CONFIDENTIAL TEXT DELETED – sales arrangement]** ports at cheaper freight rates than are available to the Applicant here in Australia.

Without detracting from Jeonju's primary position – which is that it did not engage in “dumping” - Jeonju submits that in the main market where it competed with the Applicant, Jeonju's customers preferred its newsprint over that supplied by the Applicant for the overall quality, production cost savings, service and delivery of Jeonju's product. Accordingly any injury suffered by the Applicant in relation to the loss of **[CONFIDENTIAL TEXT DELETED – Jeonju customer/s]** to Jeonju was caused by factors unrelated to dumping – whether or not any “dumping” existed.

F Non-attribution of injury caused by other factors

1 New technology

As noted in the Consideration Report:

NSIA state that the demand for newsprint is driven by newspaper circulation and the volume of advertising in each paper. Newspaper circulation is also a function of demographics and population growth. However in recent years newspaper circulation growth has been impacted by the rise of digital alternatives.

¹³ As an example of the newspaper publishers growing preference of higher recycled content based newsprint, see – <http://www.thenewspaperworks.com.au/news-commits-to-sustainable-newsprint-practices/>

¹⁴ Norske Skog Boyer, Submission No 39 to Productivity Commission, *Inquiry into Tasmanian Shipping Costs and Freight*, 17 December 2013, page 3.

Jeonju submits that these factors have significantly altered conditions in the Australian newsprint markets in recent years, and will have been the most influential catalysts of any “injury” claimed by the Applicant.

Under Section 269TAE(2A), the Minister must consider whether any injury was caused by factors other than the exportation of the goods. This expressly includes developments in technology. In the present case, it is self-evident that technological advancements and increased digital alternatives have decreased the demand for newsprint. Sales of hardcopy newsprint continue to shrink. Digital alternatives to newsprint have significantly changed consumer reading habits in recent years, leading to a decline in the circulation of newspapers and a consequent reduction in printing and newsprint sales volumes. These deleterious impacts are unrelated to the exportation of newsprint by Jeonju, whether dumped or not.

2 Other factors leading to market volume and price decline

Other factors that have influenced the decrease in demand here in Australia include environmental events and economic trends such as the impact of droughts, weaker employment in selected markets, declines in the mining sector and an aging population.¹⁵

In relation to the latter, the generation that is most accustomed to hardcopy newspapers - the so-called “baby boomer” generation – is a reducing demographic group. As print readership is concentrated around older generations the demand for newspapers will continue to decrease as this demographic becomes smaller.¹⁶

3 Price pressure from major newspaper publishers

In response to reduced demand and lower margins, Australian newspaper publishers have used their market power to demand price reductions for newsprint. These changes in patterns of consumption¹⁷ are part of a global trend. Newspaper demand is decreasing, and advertising expenditure is down.

There can be no doubt that this will have directly contributed to the Applicant’s financial position. The Applicant can be expected to have responded to these conditions by decreasing prices so as to

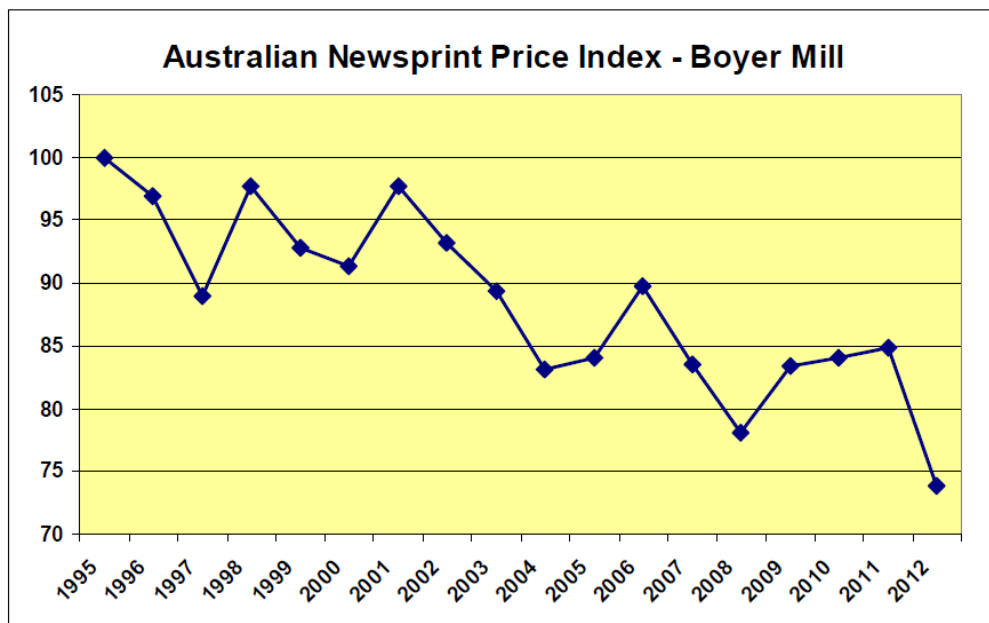
¹⁵ Fairfax Media, 2014 Half-year Results, Investor Briefing, 20 February 2014.

¹⁶ *The Works Quarterly Newspaper Audience Report*, Quarter 2, 2014.

¹⁷ *Customs Act 1901* s 269TAE(2A)(c).

maintain throughput, market share and long term agreements with newsprint purchasers. As the Applicant stated in its Productivity Commission submission:¹⁸

The chart below shows an index of the newsprint price that Norske Skog Boyer Mill has received in nominal dollars since 1995.



The chart shows that although the newsprint price fluctuates over time, in nominal terms there has been a significant decrease in price of 26% over the last 17 years, an average of 1.5% per annum. In real terms this is significantly larger at around 3.5 to 4% reduction year on year. This significant downward pressure on newsprint prices is evidence of the commercial pressure under which Norske Skog operates, fundamentally driven by a global declining demand for the commodity, including within Australia and subsequent production capacity surpluses.

Jeonju notes that as a result of the changes in demand and technology the Australian newspaper industry has been in a loss making state for many years. During the period of investigation, most Australian newsprint purchasers have incurred major losses in their newsprint business units as a result of a decrease in demand and in their advertising income, and increased operational costs.¹⁹ As a

¹⁸ Norske Skog Boyer, Submission No 39 to Productivity Commission, *Inquiry into Tasmanian Shipping Costs and Freight*, 17 December 2013, at page 6.

¹⁹ See News Corporation 2013 Annual Report, at page 49:

“Revenues at the Australian newspapers for the fiscal year ended June 30, 2013 decreased 15%, as compared to fiscal 2012, primarily reflecting lower newspaper advertising revenues principally due to the continued challenging economic environment in Australia.”

consequence of this, Australian newspaper publishers continue to restructure their businesses, particularly in relation to newsprint business units. This restructure has included a large number of redundancies; newspapers being resized and reformatted to compact formats to reduce costs on printing materials and processes;²⁰ closure and consolidation of printing facilities;²¹ and the removal of ineffective circulation channels.²²

In light of the overall market decline and business restructures, some of the major Australian newspaper publishers have changed their newsprint procurement models by shortening the length of supply contracts, using multiple newsprint suppliers, and demanding spot price clauses in their supply contracts, all of which is directed towards allowing them greater flexibility and the prospect of lower costs. These trends have contributed to an increase in market competition and reductions in the profit margins of newsprint suppliers.

Jeonju's recent experience in tenders by Australian newspaper publishers has been that newsprint suppliers have been **[CONFIDENTIAL TEXT DELETED – market intelligence on market behaviour]** in seeking lower prices, including the use of **[CONFIDENTIAL TEXT DELETED – commercial arrangement]**. Jeonju has been unsuccessful in several tenders as it has refused to reduce prices to uneconomic levels. The major newspaper publishers are in a stronger bargaining position under present

Similarly, the Fairfax Media 2012 Results Announcement, at page 3:

Economic conditions remain challenged in our core advertising markets. Ongoing structural changes continue to affect our Metro Media business. Early FY13 revenues are tracking 10% below the prior year. Difficult trading conditions are likely to continue.

Also see, Fairfax Media 2012 Annual Report, at pages 4 and 6:

We are making changes as we trade through this prolonged downturn. I have been in this industry since the 1970s and I have never seen an advertising environment of the type that we experienced during this year.

...

Indeed, print circulation in regional and community areas is strong. However, for certain parts of the business, particularly the metro newspapers, Fairfax needs to increase efficiencies and cut costs in line with structural challenges to revenue

²⁰ Fairfax Media, 2012 Annual Report, at page 2; APN News & Media, 2011 Annual Report.

²¹ Fairfax Media, 2012 Annual Report, at page 4; APN News & Media, 2012 and 2013 Annual Report, at pages 7 and 10.

²² Fairfax Media, 2012 Annual Report, p 4; Emily Tullock, *The PANPA Bulletin* (May 2012) *The NewspaperWorks* <<http://www.thenewspaperworks.com.au/wp-content/uploads/2013/11/o201205.pdf>>; Nic Christensen, *ABCs: Double digit declines for newspapers* (14 February 2014) ABC <http://www.abc.net.au/mediawatch/transcripts/1403_mumbrella.pdf> .

market conditions.

All prices are being reduced, and supply conditions are being exploited by the publishers in their own favour. These are not injury factors that have anything to do with the price of Jeonju's exports. The profitability of both the Applicant and of exporters such as Jeonju has been affected by the changes in consumption patterns and the reaction of the publishers to those changes.

4 The Applicant's product and production choices

Jeonju considers that the Applicant's claim of injury in the form of reduced profit, sales revenue and volume is also related to its production processes and its product. The factors that have impacted on the Applicant in this regard include:

- a higher cost, virgin fibre based production model;
- overall high operation cost;²³
- high logistics costs from its Tasmanian location; and
- recent expenses of converting the Applicant's Boyer Mill to produce light weight coated ("LWC") paper.²⁴

Jeonju submits that these issues are not attributable to the importation of Jeonju's product and must be excluded from the injury consideration by the ADC. A flow on effect of the poor performance of the Applicant in a downsizing market has been the restructuring costs it has faced, including employee redundancies.²⁵

²³ At the Applicant's Boyer Mill, the Applicant spends over AUD140 million a year in wages and salaries, goods and services and payments for wood, energy, transport and other services. See: <http://www.themercury.com.au/news/tasmania/boyer-mill-norske-skog-keeps-turning-fresh-pages-in-constant-reinvention-to-stay-ahead/story-fnj4f7k1-1226777475242>

²⁴ See <http://www.norskeskog.com/Business-units/Australasia/Norske-Skog-Boyer.aspx>. the Applicant spent 85 million in converting its Boyer mill to LWC production line. Jeonju notes that LWC paper is not newsprint. Therefore the cost incurred for the conversion of the Boyer Mill to LWC production should be quarantined from the injury analysis.

²⁵ The Applicant incurred approximately AUD4 million in restructure expenses, primarily caused by redundancy costs at Norske Skog Albany. There has been redundancy at both of the Applicant's the Boyer and Albany mills during the investigation period. Source: Norske Skogindustrier ASA (Norway), Third Quarter 2010 Interim Financial Statements

In summary, these factors indicate that the Applicant's "injury", if any, has been largely due to the overall market decline and the changes in consumption patterns, including substantial decreases in demand for newspapers within the market segments dominated by the Applicant, as well as the Australian newspaper publishers' own product choices and business decisions.²⁶

G Material injury caused by "dumping" is not evident

Jeonju considers its response to the Exporter Questionnaire and the information in this submission establish that Jeonju did not export newsprint to Australia at dumped prices during the investigation period, and that any injury suffered by the Applicant was caused by factors unrelated to Jeonju's exports or the price of Jeonju's exports.

Further, Jeonju respectfully submits that the ADC should conclude that it is not satisfied that the information provided by the Applicant in the Application itself establishes either the nature or the severity of the requisite level of material injury prescribed under Section 269TG of the Act. Jeonju makes the following observations in relation to the information provided in the Application which is alleged to support the material injury claim:

- the Applicant's market share *increased* since the 2010/11 period, and *accounted for about 80%* of total market share during the investigation period;
- the Applicant's sales volume in 2013/14 period declined by 25% from the 2010/11 level, during a period in which the total market volume *shrunk by 40%* and total imports *by 66.3%*;²⁷
- in a sharply declining market, the Applicant's profit during 2013/14 reduced by only 8%, and it actually *increased its unit prices by 1.49%* as compared to 2010/11 levels;²⁸

²⁶ Also see, Norske Skog 2013 Annual report:

Operating revenue in 2013 was NOK 3.8 billion (NOK 5.3 billion) and gross operating earnings were NOK 606 million (NOK 879 million). The reduction in gross operating earnings resulted from portfolio changes and the transition in Australia into magazine paper. Sales volumes declined by 26% to 0.8 million tonnes. Long-term customer contracts in Australasia were extended to 2020.

Demand for newsprint in Oceania fell by 17% in 2013. Capacity utilisation for the group in Newsprint outside Europe was 88% in 2013 (88%), reflecting the conversion project at Boyer.

²⁷ Application, page 15

²⁸ Application, page 24

- the Applicant's sales of the goods under investigation to export markets during the investigation period *increased by 910% in terms of volume and 854% in terms of value* from their respective 2010/11 levels.²⁹

Jeonju also wishes to point out that approximately 35% of total newsprint importation in the period of investigation, being newsprint from Indonesia, New Zealand and other countries, is not being investigated in the current investigation, when it has to be presumed that these imports are being forced to compete under the same conditions as everyone else.³⁰

Jeonju submits that the information above indicates that the variance of the Applicant's sales performances in the Australian market has been predominantly caused by the decline of the overall market size and customer demand. In fact the Applicant has not only maintained its unit sales price and retained profitability, it has also further expanded its market share dominance. These facts do not support the Applicant's claim that dumping has caused or threatens injury.

In the Consideration Report, it is noted that the Applicant claims that:

...the increased availability of newsprint supply from France and Korea at dumped prices in Australia is likely to impact the purchasing intentions of other newspaper publishing groups, thereby presenting a foreseeable and imminent threat of future material injury to NSIA (with further lost sales and reduced profit).

However the information provided by the Applicant does not support claims of price and profitability depression, because prices have in fact increased since the beginning of the injury analysis period, whilst the total market size reduced by 40% during the period.

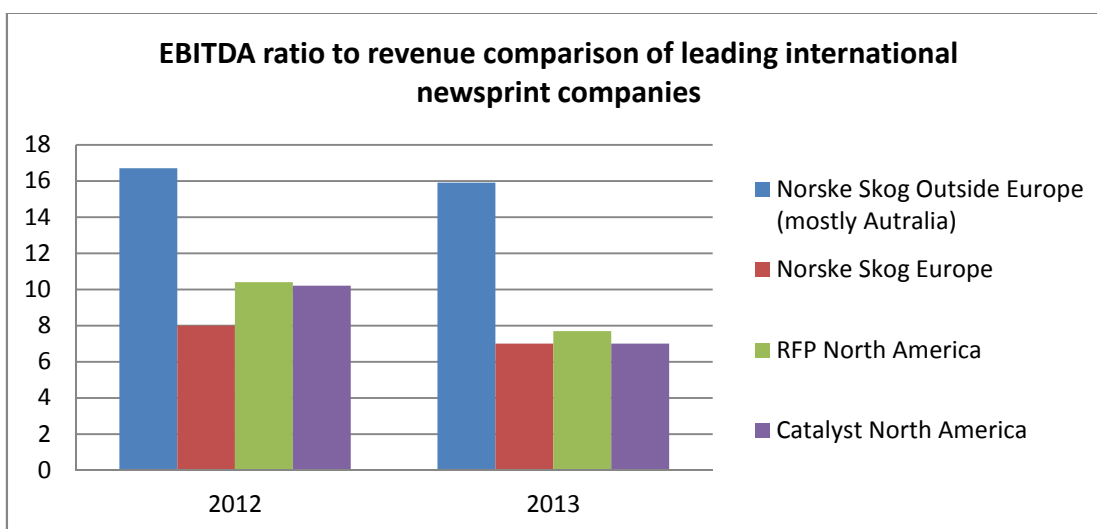
The ADC is also asked to pay careful attention to the impacts on the Applicant of any "differential pricing policy" between its domestic and export markets. The Application demonstrates a 900% increase in export sales over the injury investigation period. We suggest that the export sales are taking place at a significant discount to domestic sales (ie potentially "dumped"). This is relevant for at least three reasons. First, any injury caused to the Applicant by reason of its production and sale of newsprint for export must not be attributed to its claim of injury caused by alleged dumping in the Australian market.

²⁹ Application, page 16. Section 269TAE(2A) provides that the Minister must consider, *inter alia* whether any injury to the Australian industry were caused by "*the export performance and productivity of the Australian industry*", and any such injury must not be attributed to the alleged dumping.

³⁰ Application, page 35.

Secondly, the knowledge of any such price differential can be expected to have intensified the price demands of the Australian customers of the Applicant, who no doubt can be expected to have become aware of those differentials and would have become concerned that the Applicant was not making commensurate price offers to them. Thirdly, such a price differential should underline that the Applicant cannot expect to attract super profits here in Australia when newsprint markets all over the world are being similarly affected by market impacts which are unrelated to the dumping of newsprint.

From all appearances, it would seem that the Applicant has been performing well in a weak and transforming market. We can see this not only from the information extracted from its Application, but also from comparative data extracted from the financial reports of major international newsprint producers. This is demonstrated in the chart below:



Source: Jeonju analysis of publicly available annual and quarterly reports³¹

Finally, in addition to all of the above reasons which militate any finding of dumping-caused injury, it must be recalled that total importations of newsprint from Korea accounted for less than 10% of the market in the relevant period. Comparatively, the Applicant commands 80% of the total Australian market, and 35% of imported newsprint is not under investigation. Jeonju submits that all of these factors conclusively indicate that any injury that may be said to be attributable to its exports from Korea – if at all “dumped”, which is denied - is immaterial.

³¹ Norske Skog reports “Norske Skog Europe” and “Norske Skog Outside Europe” separately in its publicly issued financial statements. The two Australian mills at Boyer and Albury made up over 77% of the newsprint production capacity for “Norske Skog Outside Europe” by the end of 2013, after the facility closure of its Tasman mill in New Zealand and divestment of operations in Thailand and Brazil.

H Conclusion

In summary, Jeonju submits that:

- there has been a decrease in demand for newsprint at an overall market level, however the largest decreases in demand are in the largest market segments, and that in these large markets Jeonju does not compete with the Applicant;
- in the major market in which Jeonju did compete with the Applicant, the customer preferred Jeonju's products mainly for reasons of quality, service, delivery and production cost savings;
- injury has been caused to the Applicant by a number of other factors not related to the exportation of Jeonju's products to Australia; and
- most importantly, Jeonju's exportations of newsprint during the investigation period were not "dumped".

Jeonju respectfully requests that the ADC give full consideration to the information provided in Jeonju's Exporter Questionnaire response, and to the matters raised in this submission. As a result of that consideration, the ADC should terminate this investigation at the soonest possible opportunity, either on the basis that Jeonju did not engage in any dumping of the goods under consideration, or that material injury cannot be said to have been caused by Jeonju's exports of those goods to Australia.

Respectfully submitted on behalf of Jeonju Paper Corporation by:

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Principal

Charles Zhan
Lawyer