

Hi there

## Let's talk responsibility and ethics



Over the last week, the Lehrmann trial grabbed a lot of social media attention, unfortunately mostly for the wrong reasons. Many social media users have been calling out the mainstream media for their biased reporting of the rape trial and framing Brittany Higgins in a negative light - owning up to the name 'accountability media' some have given to social media platforms for enabling users to demand transparency and accountability. The media's influence on public attitudes is indisputable but it

becomes a matter of serious concern when journalism ethics are almost brazenly thrown out of the window. In her piece, Monica Attard reflects on the way the mainstream media have reported the rape trial over the last week.

Meanwhile, CMT research fellow Michael Davis takes us to a US court, where the jurors ordered conspiracy theorist Alex Jones to pay a whopping nearly US\$1 billion for promoting the lie that the December 2012 Sandy Hook Elementary School shootings – the deadliest school shootings in the history of the US – never happened.

In other news, the Australian High Court has appointed Justice Jayne Jagot as its 56th justice, becoming the seventh woman appointed to the Court. Sacha Molitorisz writes about the first time Australia's highest court has had a female-majority bench, and what it may mean for the future of media law in the country.

No doubt that social media has its 'virtuous side', but its demons can be bigger and

dangerous, and mis- and disinformation are certainly on top of that list. Next up, Stevie Zhang brings our attention to some of the misinformation discourse that has been circling around social media platforms about the upcoming Victorian state election. Last but not least, Sacha Molitorisz featured in Network Ten's documentary [Mirror Mirror - Love + Hate](#), in which he answered questions about digital media, public interest, and the importance of trust.



**Ayesha Jehangir**  
CMT Postdoctoral Fellow

## Who's on trial?



Over the past fortnight, a long-anticipated criminal case has been underway in the ACT. On trial is Bruce Lehrmann who is accused of raping his one-time colleague Brittany Higgins in Parliament House in 2019. Lehrmann has pleaded not guilty. Whilst it is Lehrmann, not Higgins on trial, you'd be forgiven for being confused by some media headlines, implicitly suggesting otherwise. Even the ABC, usually a stickler for the protocols of court reportage was [called out](#) for 'victim blaming' by those objecting to its labelling of the story as the

'Higgins trial'. The story on which that headline appeared was posted on a weekend evening and removed the next morning.

The ABC isn't the only news media outlet to be accused of victim blaming - where the victim of a harmful act is blamed for the crime. Several commercial media organisations also labelled their court stories the 'Higgins trial'. It's true that for a long time Lehrmann was unable to be named as the accused and the allegation of rape inside Parliament House garnered a lot of media attention, with Brittany Higgins herself as the focus of all these stories and, with Grace Tame, the leader of a reinvigorated #MeToo movement in Australia as a result of the publicity. But some media organisations are also attracting negative social media attention for the tone of their stories on the trial with critics accusing them of getting close to the [levels](#) of victim blaming that Amber Heard received, though in the Heard-Depp case, a deliberate and large social media campaign fuelled the victim blaming.

The signs of victim blaming are almost always via implication – implying that what a woman wore and how much she drank makes her ripe for the picking, such as [The Daily](#)

[Telegraph's](#) headline which implies that a woman's behaviour – even drinking socially – is to blame. There's been plenty of implications in the reporting of the Lehrmann trial, including that Ms Higgins was '[not ashamed](#)' of [giving media interviews](#) ahead of reporting the alleged rape to the police because she sensed a #MeToo reckoning of institutional power, with the bonus of inflicting maximum harm on the Liberal Party for which she worked at the time. The news media were, of course, reporting the evidence being given in the court room, as it must. And there were many instances where news media rectified the way it labelled the trial reportage. But when headlines like 'Higgins Trial' are slapped on reportage that highlights a narrative implying the victim is lying, you have to wonder whether old norms might still be at play.



**Monica Attard**  
CMT Co-Director

## The price of lies



Two months ago, [we covered](#) the nearly US\$50 million in damages awarded against misinformation monger Alex Jones for defaming the families of the 2012 Sandy Hook shooting victims in the US. Jones's comeuppance continues – yesterday a Connecticut jury awarded an astonishing [\\$965 million in damages](#) to the families of eight Sandy Hook victims and an FBI agent who responded to the massacre.

The US defamation law, just like Australia's, is still struggling to deal with the reach of social media, and the Jones cases are [playing a role](#) in defining the direction of the US law. An interesting element in the Connecticut jury's deliberations over damages was raised by plaintiff lawyer Chris Mattei, who [suggested a 'baseline' figure](#) of \$550 million would account for the reach of Jones's 'lie machine'. This amounts to [roughly one dollar for each social media impression](#) that Jones's Facebook, Twitter, and YouTube accounts accumulated in the six years following the shooting.

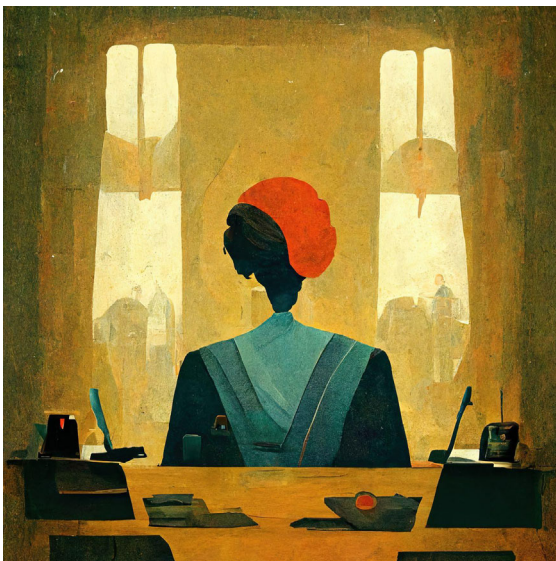
Still, defamation actions have their limits as a tool to address monetised misinformation. But in this case, judge Barbara Bellis ruled Jones liable not only for defamation, but also for violating Connecticut's Unfair Trade Practices Act by using lies to hawk merchandise to his followers. The plaintiffs had brought an action under this law in addition to their defamation claim.

Despite the extraordinary outcome, the Jones saga will not end here. As the verdict was announced, Jones was doubling down, calling on his followers to hand over their cash to save Infowars, whose parent company Free Speech Systems' bankruptcy claim has been challenged by the Sandy Hook families. Jones still faces a third defamation suit over Sandy Hook, brought by parent Lenny Pozner, who has already won [a defamation case](#) against James Fetzer, Holocaust denier, 9/11 truther and professor emeritus of philosophy at University of Minnesota. Fetzer authored the book *Nobody Died at Sandy Hook*, which Jones used to build his conspiracy narratives. Curiously, amongst Fetzer's academic publications is [a paper](#) called 'Information: Does it have to be true?'



**Michael Davis**  
CMT Research Fellow

## The media in court



The law consists of legislation. But it also consists of judicial precedent, or 'common law', as handed down by the courts. And in the courts, change is afoot.

On Monday, [Justice Jayne Jagot will take her place](#) on the High Court, marking the first time Australia's highest court has had a female majority. It's a significant moment in history, but what does this mean for the future of media law?

Last year, Justice Jagot presided over the sensational Federal Court defamation trial brought by then-Attorney-General Christian Porter against the ABC and journalist Louise Milligan. The case was settled in May 2021, so no judgment was delivered. However, a series of rulings left no doubt about her ability to make tough calls, including [her decision in June 2021 to remove 27 pages of the ABC defence](#) from the court file 'to prevent prejudice to proper administration of justice'.

And last month, [Justice Jagot held](#) that a newspaper report about a businessman was not defamatory, whereas an analogous report on Nine's flagship current affairs program *60 Minutes* did convey defamatory imputations. As Justice Jagot wrote, 'A program of this kind may be based on sober and careful journalism, but ... it is using numerous techniques – interplays of darkness, shadow, headlight glare, small pools of light, shadowy and silhouetted figures, unfocused images, slow motion, cutting between scenes, subsequent

reveals of people's identities, voiceovers and ominous, portentous, or intriguing music – to create an impression of high drama and international intrigue.' The judgment showed a forensic attention to detail.

At events such as this [upcoming lunchtime seminar](#), new Communications Minister Michelle Rowland is outlining her priorities. By contrast, judges tend to be less forthcoming. The Porter and Schiff cases don't give many clues about how Justice Jagot will tackle media law issues, other than revealing a meticulous rigour. So, it will be fascinating to watch as the High Court, even as it faces further personnel changes, delivers big decisions about the responsibility of digital platforms, the constitutional protection of free speech, the limits of privacy, and other issues crucial to the vitality of our public and collective life.



**Sacha Molitorisz**  
Senior Lecturer, UTS Law

## Pumping election misinformation



Our monitoring of social media posts about the upcoming Victorian state election has revealed similar misleading narratives as [those which were circulated during the federal election](#) earlier this year. To counter mis- and disinformation, the Victorian Electoral Commission (VEC) has been running its own [register of misinformation](#) to 'sort fact from fiction'. It focuses on narratives that allege election interference or election fraud, such as claims that the VEC will be using Dominion voting software — a narrative [imported from the US](#) and [popularised](#) in Australia by former Senator Rod Culleton. The VEC has also followed the Australian Electoral Commission's lead in engaging with voters' questions and concerns [directly on social media](#).

Misinformation narratives that emerge during election time often target the electoral system. In this instance, attacks have been levied at the VEC, as a way to diminish the body's credibility and thereby pre-emptively undermine election results. For example, a common narrative we have encountered again and again is the claim that the reason pencils are provided at polling stations is so that ballots can be easily altered after votes are cast. However, the provision of pencils is a logistical preference — they do not dry out or jam,

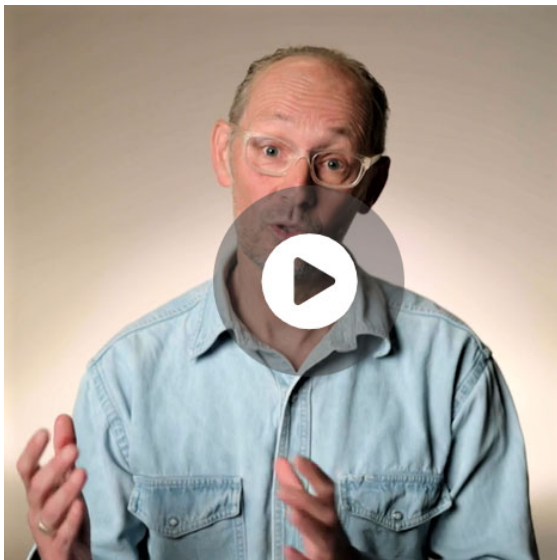
thus removing one aspect of the voting process that polling staff needs to oversee. Voters who wish to use a pen can bring their own. Additionally, [the VEC notes](#), 'scrutineers are appointed by each candidate and can observe all aspects of ballot handling, such as vote counting', removing the possibility of any changes being made to ballots.

Another theme in misinformation about the Victorian election is that it is sometimes wrapped in criticism against current Premier Daniel Andrews. Many of the claims against Andrews baselessly allege that he will interfere with the electoral process. One narrative we found circulating on Twitter claimed that Daniel Andrews was a 'member' or the leader of the VEC, which is 'not independent but [an arm of the Labor Party](#)' — the VEC is an independent, impartial and neutral statutory body set up under the Electoral Act 2002, [not subject to direction from any minister](#). Another narrative suggested that Andrews has 'links' with China and/or the Chinese Communist Party and that Andrews being in office meant '[China has control over Victoria](#) until election time'.



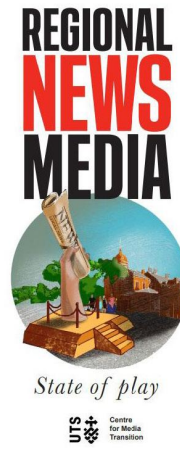
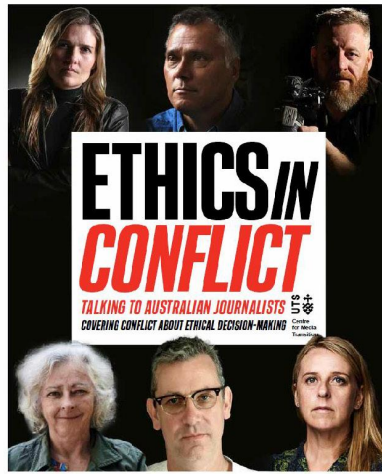
**Stevie Zhang**  
CMT researcher

## Trust and algorithms



Earlier this week, Network Ten raised confronting questions about digital media in Todd Sampson's two-part documentary *Mirror Mirror - Love + Hate*. For the segment, 'How the Internet changed Journalism', Sacha Molitorisz discussed the public interest, the importance of trust and the need to regulate algorithms. Watch it [here](#).

Please visit our [website](#) for more information about the Centre.



*The Centre for Media Transition and UTS acknowledges the Gadigal and Guring-gai people of the Eora Nation upon whose ancestral lands our university now stands. We pay respect to the Elders both past and present, acknowledging them as the traditional custodians of knowledge for these places.*



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