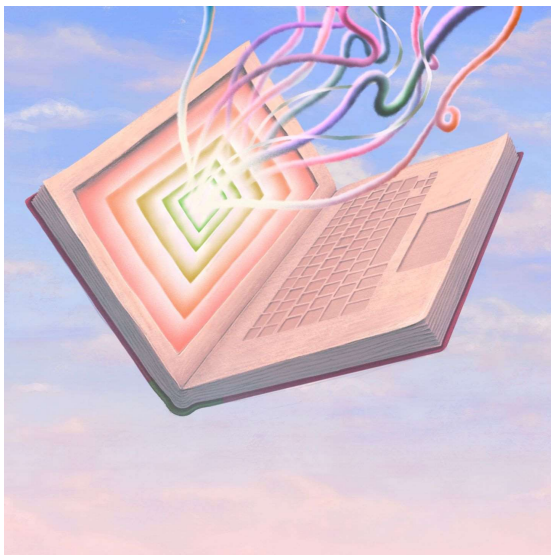


Hi there

An appetite for reform



New Communications Minister Michelle Rowland has [raised the prospect](#) of a review of communications regulation in a bid to 'make federal policy apply to an era where social media and streaming is prevalent'. Could long-anticipated reform of media regulation be brewing? In today's newsletter, Derek Wilding looks at a new paper from the Australian Communications and Media Authority that signals both an updating of broadcasting content regulation and its possible extension to broadcasters' online services. Michael Davis explains the

significance of 'prominence' - described by the Minister as the '[valuable real estate](#)' in apps used on smart TV to ensure that free-to-air services can be found. And CMT research assistant Vidya Kathirgamalingam looks at how the Canadian government is proposing to bring streaming services into that country's regulatory framework. But first, [a video interview](#) with Anya Schiffrin, a media academic from Columbia University whose research into propaganda and misinformation in the 1930s reveals some unsettling parallels to today. Her work has a fascinating Australian connection. Also on the theme of politics and lies, Esther Chan exposes the violence-fuelling misinformation circulating in PNG's election campaign. And to round out today's newsletter, Alexia Giacomazzi previews an upcoming CMT panel about reporting on conflict and crisis featuring some terrific panellists. It's an in-person event at UTS on August 19 and we hope to see you there.

Sacha Molitorisz

Senior Lecturer, UTS Law



Misinformation shadows PNG election



Voting is underway in Papua New Guinea (PNG) this week as the nation picks its leaders for the next five years. What scarred the election campaigning this year were the dozens of deaths [reported](#) over election-related incidents. Historically, violence, election fraud and vote rigging were [found](#) to have impacted the country's elections. The role of harmful online rumours and misinformation in undermining the integrity of an election cannot be overlooked. Here at CMT, we have identified the most prominent narratives that emerged online.

A false rumour about a purported 'illegal army' forming in the Highlands province of Hela was circulating online and in print in the last two weeks of the campaigns. The claim cited boxes of defence force uniforms being 'brought in on a chartered plane' as reason for caution. However, that claim has since been dismissed by incumbent Prime Minister James

Marape, whose office posted on [Facebook](#) on June 26 that ‘there is no illegal army being assembled in Hela as Post-Courier falsely claims’.

Narratives such as this fan fears of purported military involvement in the election and add to already heightened tensions. Fighting among voters was also [reported during the last election in 2017](#), with armed police and soldiers being sent to parts of Hela to maintain order. Problematic narratives that spring up before elections are [now a global phenomenon](#) — that is why it is more important than ever for news media to consider very carefully what to publish both online and offline, and to craft their headlines [without amplifying falsehoods](#).

Election-related violence can be exacerbated by online misinformation, especially in a place such as PNG, which is already marred by pandemic-driven unemployment and [ethnic rivalries](#). An example of how false and misleading narratives have caused harm in PNG is [misinformation about the Covid vaccines](#), which has sabotaged the health of the local communities in the shape of unverified claims, rumours and false information. [Protests](#) against vaccine requirements in certain businesses and [attacks on health workers](#) giving out vaccines have been reported across the country. As of June 27, [only 3 percent of the population](#) are fully vaccinated — more than a year after the vaccine rollout began.



Esther Chan
CMT Research Fellow

Be responsive or be regulated



Last week the Australian Communications and Media Authority (ACMA) took another step towards ‘harmonised’ regulation in the contemporary digital media environment. Its [position paper](#) - ‘What Audiences Want: Audience Expectations for Content Safeguards’ - calls some broadcasters to account for inconsistent and inadequate safeguards applying to free-to-air programs, and says it is time to start thinking how these rules might apply beyond the broadcast environment.

A decade ago, the [Convergence Review](#) flagged the need to adapt regulation so that the same media content is not treated differently across the range of platforms on which it appears. Three years ago the [ACCC](#) recognised the need to address some of the imbalances in regulation applying to traditional media organisations and to digital platforms.

And the former [Coalition government](#) responded by proposing that regulation be harmonised for the cross-platform environment.

ACMA's new paper adds to this push for reform. Applying to professional content rather than user-generated content, and accompanied by [research](#) that shows the extent to which audiences have taken up online streaming services, ACMA points out that rules such as accuracy and impartiality in news and current affairs, as well as classification guidelines and other restrictions on 'general content', are applied by the networks to their broadcasting services, but not to the same content appearing on their catch-up (BVOD) services or their websites or to other services such as YouTube channels or live streaming. ACMA's critique of this is based on the importance of community standards and audience expectations: 'audiences now expect that existing broadcasting content safeguards should also apply to streaming content.'

More than this, the ACMA paper reveals how the codes of practice vary greatly from commercial TV to commercial radio and pay TV, as well as between these services and those of the public broadcasters and, in some respects, print and online news services. And it identifies some distinct shortcomings in current codes. These include the failure to regulate some practices evident from ACMA's 2019 review of coverage of the Christchurch terror attack, as well as the current privacy protections applying to news and current affairs programs, which ACMA says might need extending to other types of content.

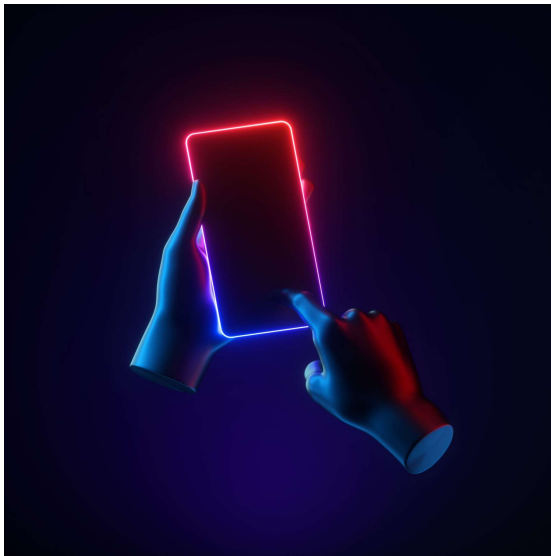
The paper does not propose specific new rules that should apply to broadcast or other content. Instead, it points to current and emerging issues, gaps or inadequacies in current regulation, and aspects of best practice that could be adopted as the codes are reviewed. And it highlights four principles of accountability that should be applied – transparency, participation, evaluation and complaints handling – noting further shortcomings in all these areas.

ACMA expects broadcasters who have not updated their codes of practice to begin – or in some cases, re-start – code reviews in the coming months, but it doesn't say how this might be done for non-broadcast services that are beyond ACMA's remit. That may well be an issue for the new government, but we might take some guidance from ACMA's own observation: 'In general, the more responsive an industry is to the changing needs and expectations of the community, the less likelihood of regulatory intervention'.



Derek Wilding
CMT Co-Director

Prominence on demand



Although ACMA's latest [consumer survey](#) was released in conjunction with a position paper on improved content safeguards, it is also likely to focus interest on other pressure points in the media environment. This includes the issue of how easy it is to find free-to-air broadcasting services on internet-connected devices such as smart TVs.

Chief among ACMA's 2021 figures is that more Australians (58%, up from 32% in 2017) now watch online subscription

services than traditional free-to-air TV (54%, down from 77%), while 37% watched catch-up free-to-air TV during the survey period. ACMA also cites GlobalData figures that show the Australian SVOD market grew almost 50% in FY 2020–21, with total earnings of \$2.49 billion. Free-to-air broadcasters still earn more, with revenue of \$4.37 billion, up from \$3.98 billion in 2019–20. Broadcasters are investing more in catch-up and other on-demand services to compete in the digital space, and audience numbers for these services are growing.

In this rapidly changing environment, an emerging issue is how easy it is to find and access services within the interfaces of smart TVs and other online devices. This is generally known as 'prominence'. Television manufacturers now sell interface real estate to content providers, effectively operating a market for the prominence of third-party services. Australian broadcasters are concerned that the market power of international content providers will outweigh the broadcasters' ability to compete in this market.

In May 2021 industry group Free TV stated in its [submission](#) to the [Media Reform Green Paper](#) that prominence is the single most critical regulatory issue now facing broadcasters. Other stakeholders observed that without regulation there is no incentive for TV manufacturers to ensure the prominence of local services or content, or even to carry them.

The Australian regulatory framework does not have any rules on prominence. But stakeholders frame their concerns with reference to longstanding government policy objectives expressed in the objects of the *Broadcasting Services Act*, which aim at supporting local content production and ensuring the provision of diverse and reliable news and information. Free TV and the ABC both suggest in their submissions that ACMA or a similar body should be given a general power to regulate for prominence.

Many overseas jurisdictions, such as the EU, have enacted or are considering prominence rules, particularly to protect public interest content. The outgoing Liberal government formed a [working group](#) to examine whether regulatory measures are required to deal with the issue. Incoming minister Michelle Rowland has also [slated](#) it as a priority for Labor. One

thing is certain: with Australians watching more of their TV online, the issue is only going to become more prominent.



Michael Davis
CMT Research Fellow

Two regulatory streams of thought



As ACMA's position paper emphasised, most Australians are now consuming video content online. With this major shift has come attempts to bestow streaming services with some of the same responsibilities borne by traditional broadcasters. We've seen this through Australia's proposed [Streaming Services and Investment Scheme](#), and in Canada with the proposed implementation of the [Online Streaming Act](#) (Bill C-11) to amend the *Broadcasting Act 1991*. Despite sharing a common objective of promoting local content on streaming services, these

proposals comprise contrasting solutions.

Australia's proposal opts for a two-tiered investment scheme. Tier 1 services must report to ACMA annually on their investment and discoverability efforts relating to Australian content. A failure to invest more than 5% of their gross revenue on Australian content poses the risk of designation as a Tier 2 service by the Minister for Communications, where formal investment obligations would be imposed.

By contrast, Canada is seeking to bring SVOD providers under the regulatory purview of their independent regulator, the Canadian Radio-television and Telecommunications Commission, or CRTC, with an approach that isn't reliant on ministerial discretion. While regulations formulated by the CRTC may be contested and forwarded to the Minister who may issue a directive, the CRTC retains the ultimate authority to prescribe content quotas, programming, expenditure and discoverability requirements, and enforce monetary penalties.

Canada has also opted to achieve this change through proposed legislative reform that will insert the new class of an 'online undertaking' into the definition of a 'broadcasting undertaking' under their Broadcasting Act. This term captures more than the Australian scheme, whose stated focus is on large SVOD providers (although the definition of an

SVOD provider is yet to be clarified). Most commercial audio-visual content online will be covered, including services such as Spotify and Audible.

Some have even suggested that this definition is so broad it could encompass user-generated content. Despite CRTC chair Ian Scott stating he has 'no interest' in regulating user-generated content, s 4.2(2) of the bill enables social media content to be considered an 'online undertaking' if, for example, the program uploaded indirectly or directly generates revenue. The regulatory reach of the bill has raised questions of whether it might curtail freedom of expression. Arguably, this is addressed by assurances in the bill that the interpretation and any regulations made under the Act will be consistent with freedom of expression – a guarantee largely absent from Australia's broader legal framework.

From a social perspective, Bill C-11 has also sought to take a more intersectional approach to the objective of promoting local content. The need to represent different diverse social identities and ethnocultural backgrounds has been added into the declaration for Broadcasting Policy in Canada contained within s 3 of the proposed Act, and the CRTC is given the authority to impose conditions in line with this policy upon online undertakings. This issue of media representation is untouched by the Australian investment scheme.

Both these novel schemes are still in the works. We will have to wait until they are enacted to see whether a commercially-driven investment scheme will be more viable than broader legislative reform with an online environment that has, until recently, remained largely untouched by broadcasting regulation.



Vidya Kathirgamingam
CMT Research Assistant

The CMT and the International Committee of the Red Cross are coming together again for 'Who should tell stories about conflict?'

In this panel, we delve into the complexities of conflict reporting, looking at the language that is used, how to ensure dignity is respected, the white saviour complex and the role of race, gender and privilege.

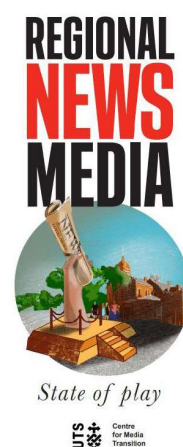
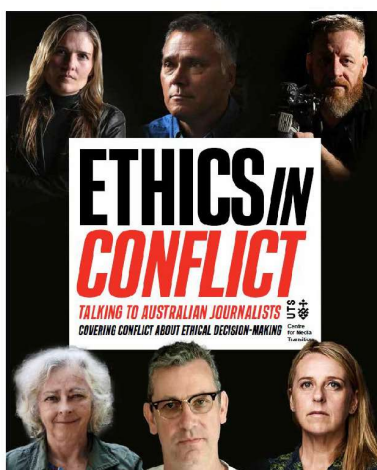
The *SMH*'s Anthony Galloway and *The Australian*'s Ellen Whinnet will be joined by Dr Sacha Molitorisz. Register for this event [here](#).



Alexia Giacomazzi

CMT Events and Communications Officer

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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