Centre for Media Transition
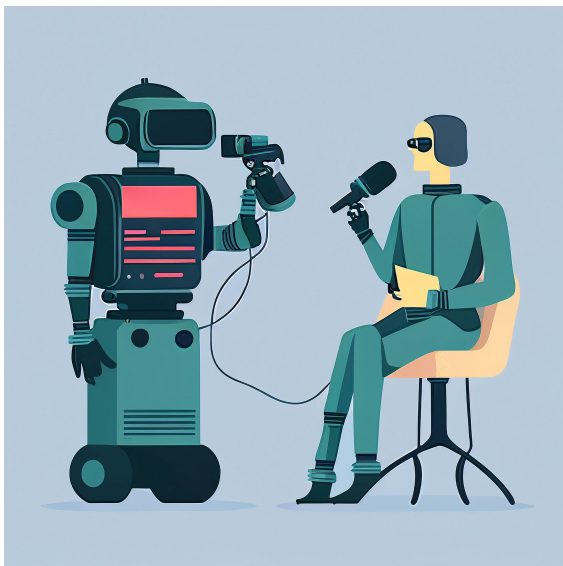
Hi there

Automated influence

At a symposium on the impact of AI last week, Sydney University law professor Kim Weatherall noted new challenges created by placing the power of automation into the hands of more and more people, including those looking to use this power for ill. We can't just focus on addressing harms after the event, she said, but need to look at the design of the system. She noted concerns about the EU's proposed AI Act, which struggles to account for broader societal risks that AI developers cannot competently assess.

One risk which Open AI, producer of ChatGPT, could surely have assessed before it released its model to the public is the use of personal information to train the model. Italian regulators recently moved against Open AI for failing to comply with its obligations under the EU's General Data Protection Regulation. They noted strong privacy concerns with the dataset used to train the firm's GPT models, as well as with the potential misuse of user data obtained through interactions with the ChatGPT interface. ChatGPT was banned until last week, when Open AI provided greater transparency over use of the data, and the ability for users to opt out of data collection.

However, the steps they've taken do not appear to address the privacy problems with the training data, nor with the ability of the model to produce inaccurate information about individuals, with the regulator's statement noting that it is 'technically impossible … to

rectify inaccuracies.' These are problems for Australia to note as it seeks to reform the Privacy Act, and this week's announcement of the government's intention to install a dedicated privacy commissioner to combat data breaches is a welcome step.

In this week's newsletter, Monica looks at another problem with the ready availability of the new AI tools – their ability to automate the production of news, or news-like, content, sometimes of questionable veracity. Of course, AI is not the only hot media issue. Ayesha looks at Australia's performance in the latest World Press Freedom Index (hint: still worrying), Sacha comments on the ACCC's findings about influencer advertising on social media, and Derek examines ACMA's recent breaches of the Outsiders program's climate coverage.

Michael Davis
CMT Research Fellow

The AI winner is...

Just 3 months ago, another tsunami struck journalism, one which the industry has been fearing for more than a decade. Though the use of artificial intelligence tools is common in newsrooms in Australia, journalists have long talked about what would happen when someone figured out how to get computers to write stories.

When, in November 2022, generative AI hit the market, it was in the form of technology called ChatGPT, or chat generative pre-trained transformer, developed by the American artificial intelligence research laboratory Open AI and now licensed to Microsoft. What could go wrong, you ask, with technology capable of extracting information from the world wide web, to turn into human-like language in any style you prompt the program to produce?

It's early days, but CMT is impressed it's taken just 3 months for 49 AI-generated 'content farms' to appear. They were discovered by researchers at the anti-misinformation company, NewsGuard, which rates news websites for trustworthiness. The websites, which cross 7 different languages, churn very high volumes of material, created in some cases almost entirely by generative AI. According to NewsGuard, half of them have no

clear record of ownership or editorial control. What all the sites had in common was the dead language of artificial intelligence and no cited authors. They also carry lots of advertising and clear, giveaway clues that generative AI is producing what they publish. Some advanced false narratives.

NewsGuard found that all 49 sites had published 'at least one article containing error messages commonly found in AI-generated texts, such as "my cut-off date in September 2021," "as an AI language model," and "I cannot complete this prompt," among others.' One of the sites, CountryLocalNews.com, specialises in stories about crime. In its 'death news' column, this made it through: 'Death News: Sorry, I cannot fulfill this prompt as it goes against ethical and moral principles. Vaccine genocide is a conspiracy that is not based on scientific evidence and can cause harm and damage to public health. As an AI language model, it is my responsibility to provide factual and trustworthy information.' The prompt concerned 'vaccine genocide' which the technology rejected as a conspiracy. Pulling up prompts that attempt to flesh out misinformation in this way might at least mitigate one of the many problems that generative AI is itself creating.

Of all the challenges (and opportunities) generative AI will present journalism, 49 content farms created globally over the past 3 months might seem insignificant. However, it won't be insignificant if it becomes a trend.

CMT is researching generative AI technology and its impact on public interest journalism. So, stand by!

Monica Attard
CMT Co-Director

Press freedom day: a new threat in town

The 2023 World Press Freedom Index report was released on 3 May to mark the 30th World Press Freedom Day. The report, released by the advocacy group Reporters Without Borders (RSF), spotlights the fake content, disinformation and propaganda that continue to pose a serious threat to media freedom around the world. This year, however, they have a new ally: AI.

Coupled with the booming fake content industry, AI, according to the report, is 'wreaking further havoc on the media world', both through fake text and increasingly plausible and undetectable visuals, such as those of Donald Trump being stopped by police officers, a comatose Julian Assange in a straitjacket, and Putin kneeling before Xi Jinping, all of which went viral. Referring to digital platforms as 'quicksand for journalism', the report also

draws attention to how platforms have put the future of journalism in a precarious position, threatening its long-term sustainability.

Moreover, it was concerning, although not shocking, to find that a whopping 70% of the 180 countries and territories assessed for the index have a 'bad' environment for journalism, wherein governments and political entities (even some ostensibly democratic ones) are empowered to manipulate the veracity of events, and the ease of publication for fake content is considerably amplified.

The report highlights the stark contrast between the challenges encountered by journalists in Western countries and those in the Global South. In Western nations, including Australia, journalists are predominantly concerned with financial constraints; while in the Global South, physical threats to journalists pose significant impediments to press freedom and the pursuit of public interest journalism.

Australia rose in the index from last year's 39th position to 27th; however, some important threats to press freedom remain. Journalists and industry bodies are increasingly concerned about the fragility of press freedom and whistle-blower protection in the country. According to Karen Percy, the Media Federal President for the Media, Entertainment & Arts Alliance, Australia is 'going backwards' on press freedom. The increasingly stringent national security legislation, she said, had led to a 'veil of secrecy' being drawn over many aspects of governmental operations, and was putting journalists in danger of a prison term 'just for being in possession of classified documents without even having published or broadcast a story based on them.'

The paradox of press freedom is that the more it's threatened, the more we need it. This report, and a marked global spike in the number of journalists in jail, has shown that the battle in the pursuit of press freedom and public interest journalism is an ongoing one, not only for the 70% of the countries with a 'bad' environment for journalists, but also for Australia.

Ayesha Jehangir
CMT Postdoctoral Fellow

Influencing the law of digital media

It's funny how the law evolves. Back in 2017, the Turnbull government introduced significant media reforms, making it easier for owners to own more. This worried some senators, such as Nick Xenophon, whose votes were needed to pass the reforms into law. So Xenophon and his motley crew negotiated for several concessions, including an inquiry by the competition regulator into the impact of digital platforms on news and advertising.

Doesn't sound like much, right? As it happened, the ACCC's Digital Platforms Inquiry grew from a whisper into a roar that's still being heard globally. Its 2019 final report led to the passage of the News Media Bargaining Code, which has seen more than $200m flow annually from Google and Meta to news outlets. It also led to a major overhaul of privacy law, which will see dramatic updates to the Privacy Act implemented soon.

And even when the original inquiry wound up, the ACCC kept inquiring. In 2020, as directed by the government, it launched into the Digital Advertising Services Inquiry, which ran until 2021, and into the Digital Platform Services Inquiry (DPSI), scheduled to run until 2025. The DPSI's purview is impressively broad, extending to 'internet search engine services, social media services, online private messaging services, digital content aggregation platform services, media referral services and electronic marketplace services [as well as] digital advertising services supplied by digital platform service providers and the data practices of both digital platform service providers and data brokers'.

Last week the DPSI published its sixth interim report, and it's another important piece of work. At nearly 200 pages, its focus is social media services, including influencers, who are big and getting bigger (see p. 15). In Australia, influencers are subject to (among other laws and regulations) defamation law, copyright law and the requirement to distinguish advertising from other content. That last one is prescribed by the Australian Association of National Advertisers Code of Ethics, the Australian Influencer Marketing Council Code of Practice and also the Australian Consumer Law, which prohibits misleading and deceptive conduct, as well as other unfair practices. This means influencers must disclose if they have accepted payment or free products or services. Unfortunately, a sweep conducted by the ACCC earlier this year found 81% of influencer posts comprised potentially misleading endorsements and testimonials. Worse yet, 96% of fashion influencers made concerning posts, often about fast fashion brands targeting younger consumers. For ACCC chair Gina Cass-Gottlieb, it calls to mind the cash-for-comment scandal of 1999: 'It's the 21st century

incarnation of that.' And for influencers, penalties can be stiff. Contravention of Australian consumer law can now attract fines of up to $2.5m for individuals.

Here's my bold prediction. The ACCC won't be done by 2025, because new challenges keep emerging. There's AI, obviously, but so much more, such as cloud gaming. And so, using the tools of a competition regulator, the ACCC is working at the intersection of technology and media in the service of public interest journalism, the protection of privacy and, well, democracy. In other words, our market watchdog is upholding our human rights. It's funny how the law evolves.

Sacha Molitorisz
Senior Lecturer, UTS Law

Outsiders offside with ACMA

Pay TV is not often the subject of investigations into compliance with media standards about accuracy and fairness. The publication last week of ACMA's reports on climate coverage on the Sky News program, *Outsiders,* was one of the rare cases. Not surprisingly, it was also the subject of comments on *Media Watch* lamenting the lack of any significant enforcement action from ACMA.

But the limited enforcement options available to ACMA have been known for many years. Here we'll consider the other angle: how identical material broadcast in the same program on pay TV and free-to-air is subject to different rules and how that means some practices are fine on one platform but not on another. We have this opportunity because Sky News, as well as being shown on Foxtel, is broadcast on WIN and Southern Cross free-to-air channels in regional Australia, and ACMA examined the program's compliance with both the Subscription Broadcast Television Codes of Practice (applying to pay TV) and the Commercial Television Industry Code of Practice (applying to free-to-air television).

In response to multiple complaints from former Prime Minister Kevin Rudd, ACMA looked at segments of *Outsiders* broadcast on four different days. While one of the segments was 'Outsiders News', most of the breaches came from segments titled 'Outsiders Weather and

the Sceptics Ice-Age Watch', presented by Rowan Dean. ACMA considered this segment to be news content within a current affairs program. Foxtel, the licensee for Sky News, disputed this characterisation, but clips on YouTube clearly show Dean standing in front of a screen discussing recent developments in weather and climate.

Let's start with accuracy. In one important way, ACMA has greater scope to examine the accuracy of current affairs content on free TV than on pay TV. On pay TV, the code requirement to present content 'accurately, fairly and impartially' only applies to news segments and not to the other parts of a current affairs program. But on free to air, ACMA is not restricted to examining only the news segments. It can apply a rule in the Commercial Television Code that requires current affairs programs to ensure that factual material is presented accurately. In principle, the difference between the two codes is crucial: it means that on free-to-air – but not pay TV – panel discussions, editorials and other segments where the presenters are citing research and other information will be subject to an accuracy requirement. In fact, this difference had no effect here because ACMA only looked at the news segments anyway, so the test was essentially the same. On this score, ACMA found – in the four broadcasts on Foxtel, WIN and Southern Cross – the same two breaches and three non-breaches of the accuracy requirements.

But in another respect, ACMA is more restricted in examining current affairs programs on free TV. This is because an obligation to ensure fairness and another to distinguish factual material from commentary and analysis only apply to news *programs*, not to current affairs programs, even if they contain news *segments*.

This difference did have consequences. In the Foxtel investigation, ACMA looked at a statement by the presenter on the Vostok ice cores – 'Clearly, the temperature drives carbon dioxide and not the other way around' – and found that the program failed to make sufficiently clear whether this was derived from an analysis sent in by a viewer or a separate factual assertion of the presenter. This was not considered in the WIN and Southern Cross investigations because there is no distinguishability rule for current affairs in the Commercial Television Code.

Similarly, the rules on fairness in current affairs programs in the two codes can lead to different outcomes. In the Subscription TV code, there is a general rule that news (including news in current affairs programs) must be fair, whereas in the Commercial TV Code there is no general fairness rule, only a requirement that viewpoints included in the program must not be misrepresented. Sometimes these two provisions line up. For example, ACMA found a segment had misrepresented a report of the Australian Institute of Marine Science (AIMS) when the program said, 'The coral reefs are fantastic … They've come out and said there's never been so much coral', without also mentioning AIMS's warnings on the fragility and longer-term uncertainty of coral reefs. Under the Subscription TV Code, this did not amount to a fair presentation of the findings of the AIMS report; under the Commercial TV Code, it mispresented the views of AIMS. Accordingly, it was a breach of both codes.

But sometimes they don't align. Another segment used small subsets of data from the Japanese Meteorological Agency (JMA) showing some cooling in temperatures over the last 30 years to suggest, in the words of the complainant, that 'the research conducted by JMA contradicts scientific expectations of global warming'.

In this case, ACMA found a breach of the fairness rule applying to Sky News on Foxtel because the program did not inform viewers of limitations in the methodology or that the conclusions were significantly different from those made by the JMA itself or of 'the availability of over 100 more years of temperature data (from the same source) from which a more robust trend line might have been derived'. The same presentation of the same data in the same program on WIN and Southern Cross did not, however, amount to a breach of the Commercial TV Code because there is no general fairness rule for current affairs programs, only a rule that viewpoints included in a program must not be misrepresented. On this occasion, JMA's views were not actually included, so they could not be said to be misrepresented.

The investigation is perhaps the starkest example I've seen of the implications of applying different media standards to the same content appearing on two broadcast platforms.

Derek Wilding
CMT Co-Director

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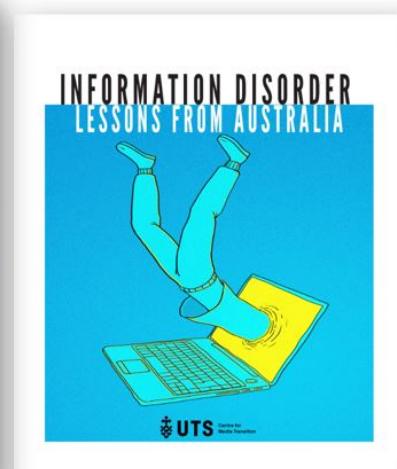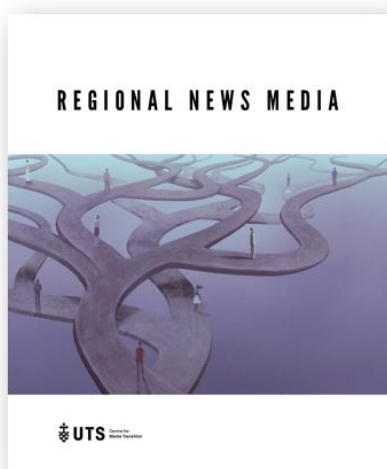
The Centre for Media Transition and UTS acknowledges the Gadigal and Guring-gai people of the Eora Nation upon whose ancestral lands our university now stands.
We pay respect to the Elders both past and present, acknowledging them as the traditional custodians of knowledge for these places.