

Centre for Media Transition



Hi there

Welcome to the Centre for Media Transition newsletter.



This week, Derek takes a look at the new governments Revive national cultural policy which includes a commitment to the introduction of Australian screen content on streaming platforms. As he points out, the idea isn't exactly new but is evolving. Michael is focusing on Communications Minister Michelle Rowlands announcement that the government wants ACMA to get new powers to hold digital platforms to account and improve their efforts to combat harmful misinformation and disinformation. I'm looking at the legal battle between Crikey

and Lachlan Murdoch, and the perils of discovery. And finally Ayesha is taking on mainstream media coverage of the troubles in Alice Spring and the alcohol bans which are proving to be quite controversial.



Monica Attard
CMT Co-Director

Content quotas for streamers



Australia last week took another step towards imposing Australian content obligations on streaming services. A small step.

The government's [Revive](#) national cultural policy included a commitment to 'introduce requirements for Australian screen content on streaming platforms'. There's not much more in the way of detail, but there was a pledge to introduce these obligations in the third quarter of this year, to take effect from 1 July next year. As we wait for the consultation on the design of the new scheme, it's worth recalling where the previous Coalition government got to on this issue, and how that differs from the Australian content rules that apply to free-to-air commercial TV and to pay TV.

First, the scheme with the longest history is of course the Australian content rules for commercial TV. In 2020 there was a big change in the obligations placed on free TV for both Australian content and children's programs. The new [Australian Content and Children's Television Standards](#) brought an easing of the requirements so that broadcasters now need to reach 250 points annually of first-release Australian content in a points scheme that values some genres (for example, high-budget feature films) more than others. Previously, there were more onerous sub-quotas that applied separately to adult drama and children's programs. And this is in addition to the overall transmission quota of 55% Australian

programs from 6am to midnight, set out in the Broadcasting Services Act (BSA).

In contrast to these broadcast quotas, the pay TV industry (meaning Foxtel and its drama channels) needs to make a financial investment in Australian content. Under the [New Eligible Drama Expenditure](#) (NEDE) Scheme in the BSA, an amount equal to 10% of the total program expenditure of each drama channel needs to be invested in eligible Australian drama programs. The Coalition planned to lower the pay TV expenditure rate to 5%, but this never happened.

Late in its last term, and off the back of previous work by the ACMA and Screen Australia, the Coalition issued a [discussion paper](#) that set out the basic design of a proposed new scheme for streaming services. Like the NEDE scheme for pay TV, it was based on financial investment in new Australian programs, rather than content quotas. And like the planned changes to the NEDE scheme, the threshold investment rate was 5% (this time, of Australian revenue). But unlike both the pay TV and commercial TV schemes – which are enforced through licence conditions – the only hard regulatory obligation was a requirement to report on investment. An enforceable 5% levy would only apply if a streaming service was designated (there's that word again) as a 'Tier 2' service because it hadn't reported or because its investment levels hadn't reached 5%.

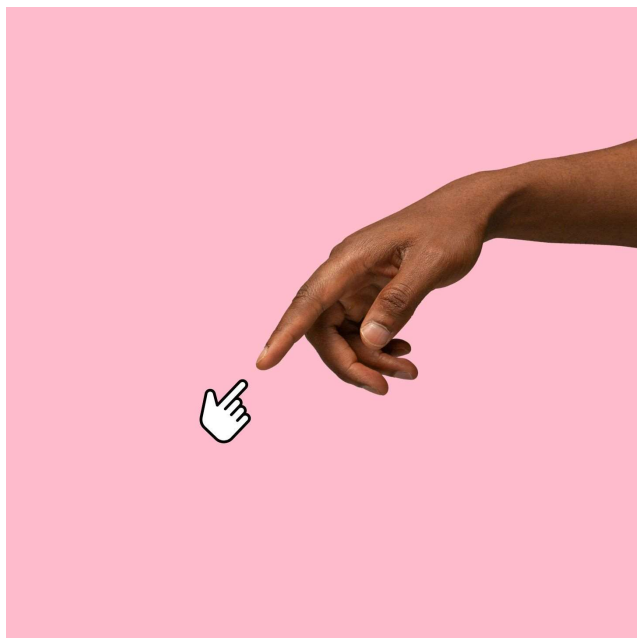
At the time the Coalition left government, the crucial and unknown element was the investment level that would be imposed on streamers who were moved into Tier 2. The then government stated it would not necessarily be 5%, leaving the question open. And this is exactly the point at which the ALP government has now arrived. Although the design of the scheme overall might not look anything like that proposed by the Coalition, the key question of how much streaming services will be required to invest is open for debate. The production sector is lobbying for a 20% levy, showing there will be wildly varying views on where to set the threshold, while the commercial TV sector is wary of the increased costs in acquiring Australian content.

While the rate of investment is probably the most important policy issue, the Coalition's 2022 consultation paper showed there's several other design elements that need addressing. More on that from us when we hear more from the government.



Derek Wilding
CMT Co-Director

ACMA's new powers



Misinformation will never be solved by trying to eradicate untruths, however harmful they may be, and nor should we try. The focus should instead be on improving the online environment as a whole. This includes making digital platforms accountable for the nature of the environment that their platforms enable.

On 20 January, communications minister Michelle Rowland [announced an intention](#) to provide ACMA with new powers to 'hold digital platforms to account and improve

efforts to combat harmful misinformation and disinformation in Australia'. The powers parallel those announced by Paul Fletcher before the election, and are likely to include the authority to request information and impose record-keeping rules, to enforce industry codes, and to make standards where codes prove inadequate. This includes imposing regulation on platforms that have not signed on to the existing voluntary code of practice.

The new powers come in response to [ACMA's report](#) on the effectiveness of the code, provided to government in June 2021 but not released until March last year. Rowland's announcement provides welcome clarity on Labor's approach to misinformation, with the inaugural [review of the code](#) launched in July with some doubt over where the new government stood.

The [revised code](#), released just before Christmas, improves on the old code in several respects. There's a lower threshold for action against misinformation, from content which poses 'an imminent and serious threat' to that which poses 'a credible and serious threat'. Serious harms resulting from the cumulative effect of dis- and misinformation are therefore now within scope. This imposes greater responsibility on signatories to improve the broader information environment on their platforms. This will also be aided by a new commitment to provide users with information about the use of recommender systems (i.e. algorithms) and options 'relating to' these systems.

Even with these improvements, however, the revised code has ignored several key issues common to many submissions to the review. Messaging services continue to be excluded, for example, despite most submissions recommending inclusion. Accountability mechanisms remain weak, with no real commitment to develop industry-wide performance measures or provide transparency over the full range of platform actions. It thus seems likely that, once granted new powers, [ACMA will move](#) to strengthen the code.

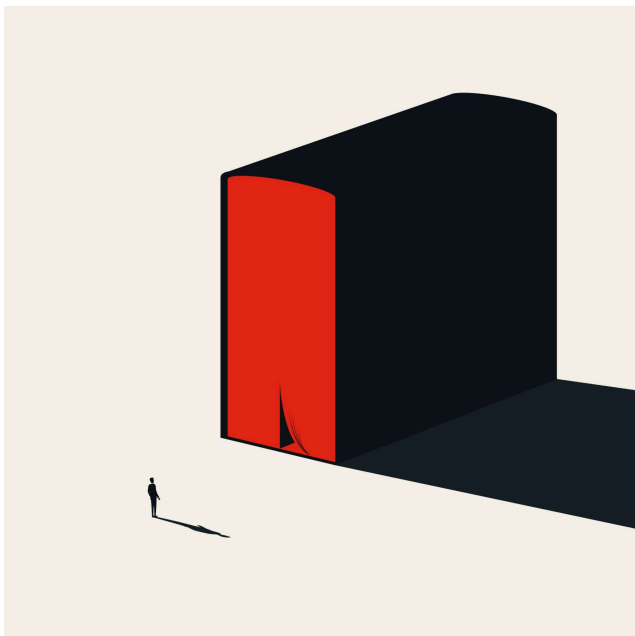
We should welcome this, but with caution. Government oversight of media is a fraught area of policy that requires a principled framework, pragmatically applied. Labor indicates the new regulation will focus on systemic issues rather than individual pieces of content. This is essential, both in principle and in practice.



Michael Davis

CMT Research Fellow

Defamation and discovery



Crikey may be a nimble, tiger of a news media organisation, but its agility and strength are about to be tested. Last week, the Federal Court agreed to add Crikey owner, Private Media Chairman, Eric Beecher and its Chief Executive Will Hayward as respondents in a defamation action brought against it by Lachlan Murdoch. It's a significant win for the Murdoch camp which claims Crikey falsely asserted that Murdoch illegally conspired with former US President Donald Trump to overturn the 2020 election result.

Until this decision, it was Crikey's political editor Bernard Keane and editor in chief Peter Fray (formerly co-director here at the CMT) who were cited as respondents.

The action centres around a piece Crikey published in 2022 which claimed the Murdoch's

were the 'unindicted co-conspirators' in the January 6, 2021 US capital [attack](#), an event which shocked the US and indeed the world, and mounted after Donald Trump lost the 2020 US election.

When Crikey first published the article outside its paywall, it was asked by Lachlan Murdoch to remove it. The publication did so, but decided to repost it in August 2022, inviting Lachlan Murdoch to sue. Murdoch [claims](#) that between July and August 2022 when the article was republished, Fray, Beecher and Hayward "contrived a scheme to improperly use the complaints by Murdoch about the (original) article to generate subscriptions to Crikey and thus income to Private Media under the guise of defending public interest journalism". The application to extend the proceedings to include Beecher and Hayward came from the discovery process which can sometimes be perilous.

According to Murdoch, that process revealed Private Media had engaged a public relations firm to design a means to increase subscriptions and maximise publicity. Murdoch claims Crikey intended to commercialise the dispute to generate profits, sought to cause offence to Murdoch in order that he not resolve the dispute, and intended to falsely claim that they (Crikey) had been intimidated, bullied and dragged into a David v Goliath battle.

Crikey intends using the new public interest defence whilst arguing the published article didn't actually suggest the Murdochs were guilty of criminally conspiring with the protesters who stormed the US capital in 2021. Murdoch's barrister Sue Chrysanthou SC argued the new defence isn't applicable to Crikey whilst Crikey's barrister, Michael Hodge KC [argued](#) 'It is either true or untrue that Rupert Murdoch, members of the Murdoch family who control these global media conglomerates and Lachlan Murdoch have not disavowed the lies about the US presidential election.' Justice Michael Wigney hasn't decided if the public interest defence can be argued.

In other 'defo' news – both Ten's Lisa Wilkinson and News Corp's Samantha Maiden have been named as respondents in Bruce Lehrmann's defamation action against the reporters' respective employers. Lehrmann stood trial last year in the ACT, charged with sexual intercourse without consent. The trial was aborted in October and the charges against him were later dropped due to concerns about the mental health of the complainant, Brittany Higgins. Lehrmann alleges TEN and News Corp were recklessly indifferent to the truth or falsity of the claims made against him.

Monica Attard
CMT Co-Director



The media and Alice Springs



The media play a crucial role in shaping public perception and informing international audiences about indigenous communities and the problems they face. However, Indigenous community representatives and advocacy groups in the Northern Territory are not satisfied with [band-aid solutions](#) offered for decades-old problems of local communities and the oversimplified media coverage of the complex [underlying issues in Alice Springs](#).

Much is happening in Alice Springs, and it is all over mainstream news. However, this time the news coverage is not about the [hospital staff crisis](#), the [longest dry spells](#) and climate change or [corporate damage to a sacred Aboriginal site](#), but for its infamous alcohol problem and the return of alcohol bans, a reminder of the controversial Howard government Intervention which lasted for 15 years.

A quick Factiva news database search reveals that the last time Alice Springs was this extensively and frequently covered in mainstream media was in 2007 – the year the Intervention was imposed – and the year after. However, 15 years later, not much seems to have changed in the way the Intervention and alcohol-related issues were covered in the media, continuing to be the kind of journalism that focuses more on the effects of a problem than its underlying causes.

The alcohol-related crime surge in Alice Springs and other remote communities in the Northern Territory is a [complex issue](#) that has needed attention for many years. While the NT and Federal governments are taking small steps to address the problem, news media could play its role by delivering more comprehensive coverage, where journalists also investigate and report on the systemic failures of past and present governments, which have

left one of the most concerning and challenging issues of alcohol-related crime untreated and lingering underneath 15 years of ‘helicopter parenting’. In recent times, much of this heavy lifting has been left to the ABC.

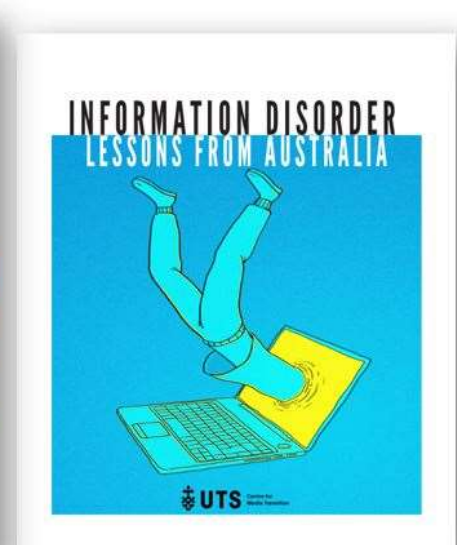
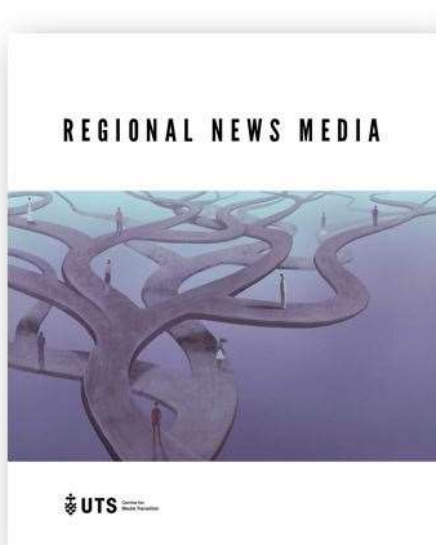
Approaching media coverage of indigenous communities and their problems with sensitivity, accuracy, and cultural competency – which has not been done in the current coverage - can make significant differences to how these local issues are perceived and understood by the broader audience – both in Australia and internationally. This requires the use of diverse voices, consulting with indigenous communities and experts, and avoiding the perpetuation of stereotypes and misinformation, such as the publicity given to [unsubstantiated claims from one local ‘cosmetic nurse’ about child sexual abuse](#) in the Territory and its prevalence in some local communities. She had claimed that [for most kids in Alice Springs, rape was part of routine home life](#), which was later confirmed as ‘hearsay’ by other news outlets, including *the ABC*.

More media attention to the generational disenfranchisement of Aboriginal communities and [structural violence](#) could protect Australia and its Indigenous communities from what is evidently growing into a [national political crisis](#).



Ayesha Jehangir
CMT Postdoctoral Fellow

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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