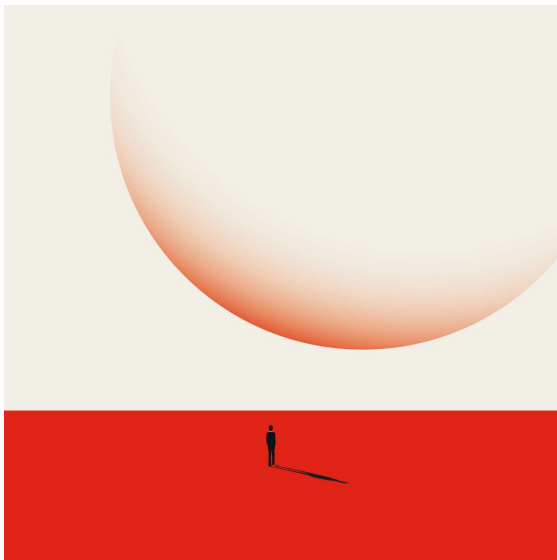


Hi there

On the boil



Things are heating up on the media policy front. In this issue, Derek addresses the question of which regulator should be tasked with managing the external dispute resolution scheme for digital platforms proposed by the ACCC, and Sacha looks at the proposed reforms issuing from the review of the Privacy Act. Last week's Senate estimates hearings covered several issues of current research interest for us, and Ayesha looks at the hubbub surrounding the ABC Ombudsman's breach finding against an ABC radio report.

Meanwhile, you might recall that at the end of 2022, with the work of First Draft wrapping up internationally, we [flagged a change of direction](#) for our information disorder research program. Our focus has moved away from real-time monitoring towards understanding the drivers of information disorder and using this understanding to develop effective policy and industry interventions.

The first project we are looking at is a study of information flows relating to the Indigenous Voice to Parliament. Politically fraught issues such as the Voice tend to generate increased levels of misinformation. By their nature, such issues are difficult to address in a way that mitigates the social harms caused by the proliferation of misinformation while preserving freedom of expression. This is a large part of what makes information disorder such a wicked problem – another theme of our research program. We hope the project will help us to understand what kinds of intervention could be useful and how they can be legitimately and properly exercised.

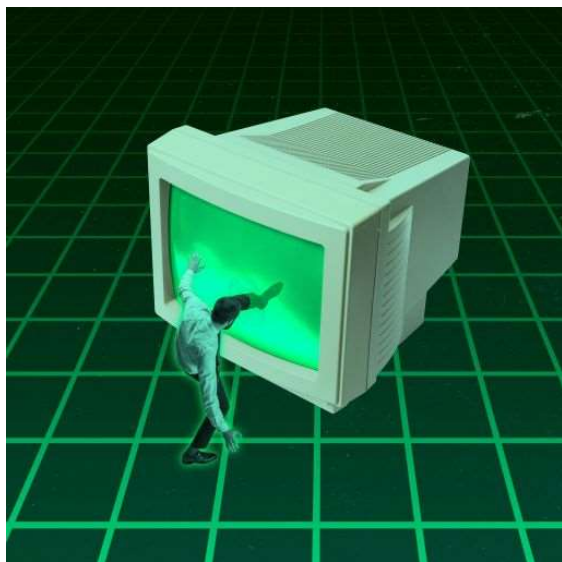
In addition to this research, we'll be launching a seminar series featuring some of our

affiliated researchers and visiting scholars working in the area. Stay tuned for more information.



Michael Davis
CMT Research Fellow

Platform complaints: enter ACMA?



Effective resolution of digital platform complaints is one step closer, with [Treasury seeking feedback](#) on the ACCC's latest proposals for how to implement a new ombuds scheme.

It seems likely that two models shape up as contenders. The first features a new ombud backed by the ACCC with powers under the Competition and Consumer Act. The second sees the Telecommunications Industry Ombudsman (TIO) doing the job, backed by ACMA with powers under a new Act.

Odds are Treasury backs the first of these, but at CMT we're opting for the second! Here's why.

We've mentioned before that the ACCC is conducting a five year [Digital Platform Services Inquiry](#) that runs until 2025 and which includes a series of consultations and reports along the way. We made a [submission](#) to Interim Report No.5 in April last year. Interest in [Report No.5](#) ramped up after Treasury issued its own consultation paper seeking feedback on the ACCC's recommendations. Among these is the proposal for a Digital Platforms Ombuds Scheme – and that's where we come in.

As you might recall, we conducted [research and issued a report](#) last year sketching out options for an external complaints scheme for digital platforms. In the report, we noted some obstacles to the effective operation of a new scheme as a result of all the existing regulators and agencies with responsibility for some aspect of digital platforms. But then we held a roundtable in December which featured the TIO, Cynthia Gebert, and speakers from eSafety, Meta and ACCAN as well as my colleague Karen Lee. The ACCC, ACMA and several other agencies and platforms were also present.

The roundtable helped us to develop our thinking on this topic, which Karen and I have now refined in a submission to Treasury. We know the ACCC would do a good job as the regulator dealing with enforcement and systemic issues, and it already administers the Australian Consumer Law. But the TIO has been operating a comparable industry-funded

dispute scheme for many years and ACMA has direct experience supervising dispute resolution schemes and in enforcing telecommunications-specific consumer protection rules and industry standards. That's the first reason.

The second concerns the longer-term environment for communications regulation. Conferring scheme oversight on ACMA might have the benefit of allowing it to develop a more holistic view of communications matters at a time when it is soon to be given powers for disinformation on digital platforms and Australian content on streaming services. In the future, ACMA's jurisdiction may need to further evolve as more regulation may be required in relation to messaging and related services.

We would hope that in the future, the platform complaints role and the enduring functions from the Telecommunications Act and the Broadcasting Services Act would form the building blocks for a new Communications Act. This would need a wider review of ACMA's existing powers to enable it to play a more substantial role in the digital platform environment. Making ACMA the regulator overseeing platform complaints could help start this process of review and refurbishment.



Derek Wilding
CMT Co-Director

A very private saga



The [privacy law review](#) currently underway in Canberra is Tolstoy meets DeMille. An epic saga. So far, the two-year review has spawned an issues paper, a discussion paper and an avalanche of submissions. It's prompted a [new act of parliament](#) and a proposed Online Privacy Code. And the review isn't done. Last week, the Attorney-General's Department released its [Privacy Act Review Report](#), which weighs in at a hefty 320 pages.

The epic scope is no surprise, because privacy is an epic issue. Indeed, it's a defining issue of our time, as the law struggles in the face of brazen hackers and unscrupulous companies. Not that the outlook is hopeless. As I argued in my [2020 book *Net Privacy*](#), what we need is a combination of specific provisions and more general protections.

Consider, for instance, the journalism exemption (specific) and a statutory tort (general). The journalism exemption means that journalists are not subject to the *Privacy Act*, and several submissions into the Privacy Act Review have suggested that this exemption

should be removed. However, last week's report recommended that it should be retained, with some provisos. Specifically, the report made Proposal 9.1: 'To benefit from the journalism exemption a media organisation must be subject to: (a) privacy standards overseen by a recognised oversight body (the ACMA, APC or IMC), or (b) standards that adequately deal with privacy.'

Effectively, that would mean privacy standards for news media will be determined by the standards enforced by the Australian Communications and Media Authority, the Australian Press Council and the Independent Media Council, as they are now. Is that good enough? Hardly. Patchy and ineffectual, Australia's news media oversight is in serious [need of harmonisation and reform](#). And even the best news media oversight schemes will struggle to effectively police journalistic incursions into privacy, unless ...

In Australia, individuals have little avenue for redress when they suffer serious invasions of privacy. This has prompted a proposal for the introduction of a statutory tort, supported by the [Australian Law Reform Commission](#) in 2014, by the [Digital Platforms Inquiry Final Report](#) in 2019, and now by the Attorney-General's Department in last week's report, in Proposal 27.1: 'A statutory tort for serious invasions of privacy ... is also proposed for adoption in federal legislation to address the current gap in mechanisms available to Australians to seek compensation in the courts for breaches of privacy which fall outside the Act.' I couldn't agree more. A general protection is needed.

The Privacy Act Review Report [is now seeking submissions](#) into its 116 proposals until March 31. If you want a say into how we should strike the appropriate balance between privacy and the public's right to know, now's the time to speak up.



Sacha Molitorisz
Senior Lecturer, UTS Law

Making mistakes by mistake?



Accuracy and impartiality are the cornerstones of journalistic ethics, and essential components of the credibility and reputation of a news source, especially in the context of culturally and politically sensitive and controversial issues.

Ideally, journalism must strive to achieve the normative goal of presenting news that encompasses a wide range of perspectives – which upholds the crucial role of journalism as a forum for exchanging ideas – and there can be significant implications

for public interest journalism when the country's national broadcaster is found in breach of its editorial standards.

Last week, the ABC came under scrutiny after an AM radio segment on the 'Save Alice Springs' town meeting was criticised for bias in conveying implications of 'white supremacy'. The radio segment that was prepared by a First Nations Quandamooka journalist and contained comments from three local people, who described the town meeting as a '[disgusting show of white supremacy](#)', '[scary](#)', and '[racist](#)'. No other views were canvassed from the gathering of roughly 3000 residents. This triggered public and parliamentary attention and caused other media organisations to question the national broadcaster's editorial standards.

While the ABC initially denied any bias in reporting, two weeks and 19 complaints later, the ABC Ombudsman's Office found the segment had indeed breached two standards of the ABC Code of Practice: impartiality and accuracy. Importantly, the segment was found to have unduly favoured one perspective over another. Later at the [Senate estimates hearing](#) last week, ABC managing director David Anderson also admitted that the systems and processes in place had 'somehow failed in this case'.

There is no doubt in the fact that timely scrutiny by the ABC Ombudsman and the way the ABC accepted accountability for its 'system failure' is commendable and can be crucial to the reinstatement of public trust in the media. However, when it comes to the coverage of Indigenous communities and representing their voice in the media, can the ABC, [Australia's most trusted news source](#), afford to repeat such mistakes, which can, in some way, exacerbate political polarisation and social divisions, and lead to a breakdown in civic discourse, especially at a time when trust in media is [declining globally](#).

Public broadcasters in a democratic country have a unique role in society and have a mandate to serve the public interest. Repeated breaches of accuracy and impartiality standards will lead to accusations of bias and agenda-setting and can create a perception that the media's role in a democratic process is flawed and not serving the interests of the public.



Ayesha Jehangir
CMT Postdoctoral Fellow

Upcoming event — listening for democracy

UTS Faculty of Arts and Social Sciences (FASS) will host Anthea Garman, Professor from the School of Journalism and Media Studies at Rhodes University in South Africa, in conversation with South African-born SBS World News presenter, Anton Enus on Thursday 9 March 2023.



Professor Garman will talk about how thinking about the concept of listening plays into how South Africans use the mediated public sphere in the era of democracy there. She will talk about the value of listening to understand how Parliament listens to its citizens, how a local municipality listens to residents experiencing poverty, how universities listen to their protesting students, and how activists listen to those whose causes they champion.

Professor Garman ultimately questions how listening theory can be useful in the context of post-apartheid South Africa. How does it account for power?

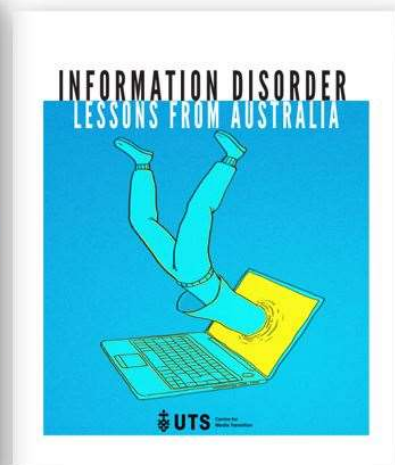
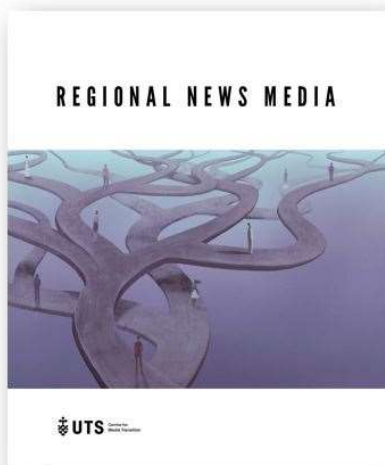
Click [here](#) for more information and to register.



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.



UTS CRICOS Provider Code: 00099F

This email was sent by University of Technology Sydney, PO Box 123 Broadway NSW 2007, Australia