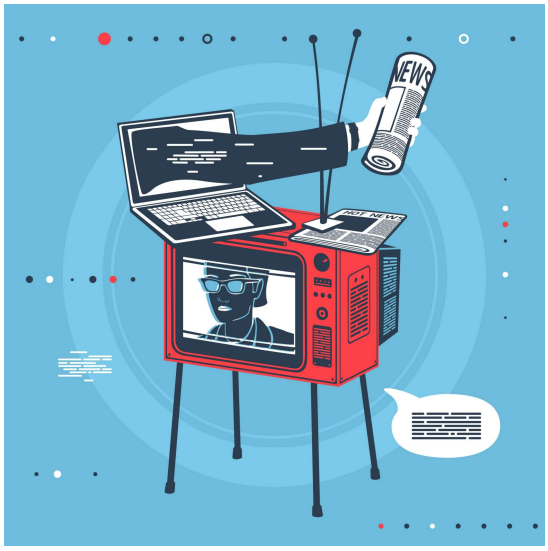
View online

Centre for Media Transition

Hi there

A week is a long time in media land



This week sees the launch of the 2023 Digital News Report (DNR) which many in the journalism industry and scholarly world look forward to. The Australian report is produced each year by the University of Canberra's News and Media Research Centre, in collaboration with the Reuters Institute for Journalism at Oxford University.

The 2023 report has some interesting findings. The number of us paying for online news is up 4 percentage points on 2022, well above the global average although as the University of Canberra team point out, the challenge is holding on to subscribers because news avoidance is increasing, and we are more and more concerned about mis and disinformation. The report also produces data to evidence what has become increasingly obvious to many – that those with a leftist disposition appreciate our public broadcasters more than others. In fact, the data shows 74% of those on the left think the ABC and SBS are important to them personally, compared to just 43% on the right.

CMT also had the pleasure last week of launching Dr Chrisanthi Giotis' first book. Chrisanthi wrote *Borderland: Decolonizing the Words of War*, based on her PhD research, whilst she was a post-doctoral fellow here at the CMT, which makes us doubly proud. Like the DNR, Chrisanthi's book is well worth a read, as she argues for a new global narrative around the reporting of war and the people it displaces, as well as for foreign correspondents to challenge their own biases and the lazy tropes that we, as media consumers, often see in reportage.

And a final plug – if I may – for Fourth Estate on 2SER. Fourth Estate is a show about journalism and last week, it featured investigative reporter Chris Masters, who with Nick

McKenzie from *The Age* and *The Sydney Morning Herald* won a defamation suit brought by Victoria Cross medal recipient Ben Roberts Smith. Chris unravels how he and Nick went about their 5 year-long investigation of Roberts Smith' soldiering whilst in Afghanistan, the perils and benefits of journalists being embedded with military in conflict zones, and the personal impact on journalists who are sued for defamation.

Also this week, Michael looks at whether it's fair for journalists to now refer to Ben Roberts Smith as a 'war criminal' whilst Sacha delves into the ethics of journalists using the social media profiles of those who died in the Singleton bus crash last weekend, ahead of their identities being revealed by police. Enjoy the reading.

Monica Attard
CMT Co-Director

Journalists: caution advised

The dismissal of Ben Roberts-Smith's defamation suits against several Australian news outlets has understandably brought a sense of vindication to much of the Australian media, as well as speculation on what will come next. Justice Anthony Besanko upheld the defendants' claims that the defamatory imputations in their investigative reporting were, in the majority, substantially true. These included that Roberts-Smith murdered and ordered the murder of prisoners, thus committing war crimes.

This raises a question about how the media should describe the verdict, and indeed, Roberts-Smith himself. There appears to be a consensus that the verdict means it is legitimate to call him a murderer and a war criminal. In one sense, this seems right: the judge found the imputations to be substantially true, and the media can thereby republish those claims without fear of further defamation.

As much of the reporting has also observed, there is a difference between what will pass muster in a civil case – namely, the balance of probabilities – and the lack of reasonable doubt that is required to prove criminal charges. The difference is brought to the fore when we consider what might happen if criminal charges are laid against Roberts-Smith, and he is acquitted. Could we then continue to legitimately call him a murderer and a war criminal? It seems not, yet the civil verdict would remain unaffected by the outcome of the criminal trial.

There is a subtle difference between coverage of the verdict and the original reports that were the subject of the trial. The latter generally used the language of allegation, while the

language of recent reporting, particularly in headlines, has been less qualified, even categorical. This seems a mistake, even if only because it precludes the nuance that may be needed later. Just as Justice Besanko qualified his own findings with a lengthy discussion of the civil standard of proof and the procedures for weighing evidence, it would seem judicious for journalists to qualify their claims. This might mean more than just referring to the civil standard in reporting the judge's verdict, but instead conveying a sense of probability or likelihood appropriate to findings established on that standard. Consider what 'the balance of probabilities' means, and proceed on that basis.

Michael Davis
CMT Research Fellow

The ethics of playing nice

Late on Sunday, a bus crashed in the Hunter Valley. The next day, horrific details began to emerge. The circumstances were particularly heart-wrenching. Fifteen minutes before the crash, these people had been saying goodbyes at an idyllic wedding in wine country. But who were the victims?

On Monday at 9.11am, police released a short statement: 'Police are still working to identify the crash victims and contact their next of kin.' Formal identification was expected to take days or weeks. That same day, however, news outlets began publishing names. Some outlets were restrained, but others splashed photos and details, mostly sourced from social media, of the 10 people who had died.

This raises an ethical issue. Should journalists publish the names and details of victims before police have released their identities? Simply, no. Clause 11 of the MEAA Journalist Code of Ethics prescribes, 'Respect private grief and personal privacy.' This is followed by a Guidance Clause prescribing that the code's standards should only be overridden if there is 'substantial advancement of the public interest or risk of substantial harm to people'. Neither of those apply here. There's no public interest in revealing those details prematurely; there's only the potential to do harm. It's not right if someone learns about the death of a loved one through a news flash.

This leads to a second issue. Are news outlets justified in publishing anything and everything they find on social media, including about people who have died? The general approach to privacy prescriptions, as the MEAA code shows, is to balance privacy interests against the public interest. Last month the ACMA used an analogous balancing test to find that A Current Affair had breached the Commercial TV Industry Code of Practice. But how does this work with scraping social media? After all, social media inhabits a confusing and fluid

zone: sometimes private; sometimes public; sometimes in the middle. In 2016, ACMA published Privacy Guidelines for Broadcasters that included a summary of a 2011 decision about the use of material taken from Facebook (Case Study 9). While no breach was found, ACMA said this does 'not mean that licensees are free to broadcast any material available on the internet without risk of breaching the code. Not all material on the internet will cease to be personal or private merely because it has been made publicly available through the absence of privacy settings or otherwise.' The ABC's Editorial Policies also include guidance on 'Use in news reports of pictures from social networking sites'. Overall, guidance for journalists is inconsistent and unclear.

Meanwhile, the issue of journalists invading privacy also arose this week with the publication of private text messages between Brittany Higgins and her boyfriend. Does the public interest in this case justify this invasion of privacy? At least one Federal MP is arguing these leaks show journalists need to be regulated more effectively. At the CMT, we've written previously about the need for a coherent news media standards scheme, rather than the confusing and inadequate mess of standards we have now.

In so many ways, journalism needs to do better. Three days after the horrific crash in the Hunter, the 2023 Australian Digital News Report was published. It showed n ews avoidance has increased to 69 per cent, with only 43 per cent of those surveyed saying they trust news media. Australian news outlets have a clear choice. They can be exploitative and unethical, or they can be respectful and trustworthy. Only the latter can help build the sort of society that's worth having.

Sacha Molitorisz
Senior Lecturer, UTS Law

Pandemedia

If journalism is the first draft of history, what will it say about COVID?

The UTS Centre for Media Transition will examine how the pandemic changed journalism in a panel discussion at UTS on Tuesday 22 August. It will take *Pandemedia* as its launch site, a collection of essays edited by ABC journalists Gavin Fang and Tracey Kirkland, that pulls back the curtain to reveal how journalism changed during the pandemic.

Certain issues already underway deepened during the pandemic, such as the weaponisation of disinformation and growing mistrust of the media. But other problems – including lockdowns – meant journalists had to find enterprising ways of telling stories, many of them

about data. And at the same time, when politicians were refining how to dodge transparency, journalists faced criticism for demanding that politicians disclose the reasoning behind their decisions, amongst them extended lockdowns. In other words, audiences no longer expected journalists to ask questions, which is arguably the sum of the job.

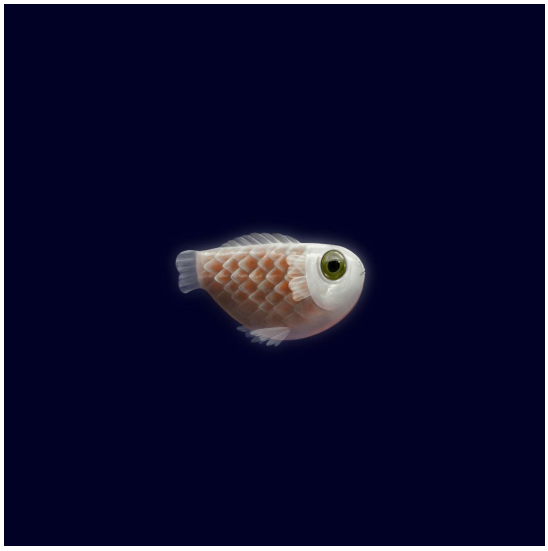
Audiences may have swarmed to news media for information during the pandemic. Unfortunately, they tuned out as fast as they had tuned in, exhausted by the relentless tolls and doomsday alarm. Journalists who lived and worked through COVID were exhausted too.

Pandemedia explores it all.

We'll bring you more information on our event soon. In the meantime, you can read more on *Pandemedia* here and even purchase your own copy! Author royalties proudly support the Indigenous Literacy Foundation.

Alexia Giacomazzi
Events and Communications Officer

Water, walkleys and our research



Before you go, we have some wonderful news. Under our Regional News Media research program, which is philanthropically funded by the Vincent Fairfax Family Foundation, we were able with our partner, Guardian Australia, to appoint a total of 5 of our UTS Journalism students or graduates to reporting positions on the Guardians rural reporting network. One has just received her first Walkley Award.

All our students have been high achieving. We have seen Natasha May, a graduate of our Master of Advanced Journalism program embed in Gilgandra in NSW for one year. She was followed by Khaled Al Kawaldeh, also a Masters student, who is now in Townsville in Queensland and by Fleur Connick who is stationed in Denniliquin in NSW. Fleur graduated recently with a Bachelor of Communications (Journalism) from UTS.

Fleur has won her first Walkley Award for her work in Denniliquin. She was awarded the Walkley Award for best short form journalism for a body of work including an examination of the testing conducted after the Minindee fish kills, the fallout from the Ecucha fish deaths and the calls for an investigation in the aftermath of the second mass fish deaths.

We congratulate Fleur. And you'll be able to read Fleur and Khaled's reflections on the

impact of their regional reporting in our next Regional News Media Report, to be published in November. If you'd like to read our first report, you can, here; it includes a reflection from Natasha May on her time reporting from Gilgandra.

Monica Attard
CMT Co-Director

Please feel free to share our fortnightly newsletter with colleagues and friends!
And if this was forwarded to you, please subscribe by clicking the button below:

Subscribe

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.