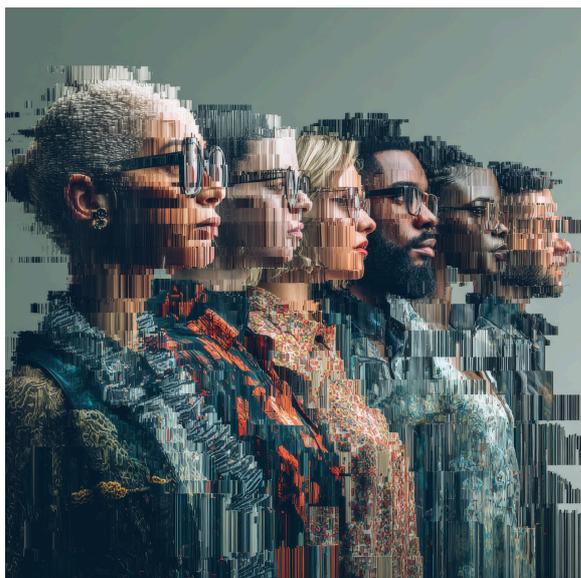


Hi there

## At the intersection



It has been a busy fortnight for anyone watching the intersection of media, tech, and regulation. [ABC](#) staff staged their first strike in 20 years over a below-inflation pay offer and concerns about job security. Echoing Derek's note in the last newsletter about the concerning volume of AI-generated mis- and disinformation by and about Iran, [UK MPs](#) have accused Meta, TikTok, and X of failing to stem false and manipulative content, warning that tougher laws may follow. Meanwhile, amid UK competition concerns, [Google](#) is

developing ways for websites to opt out of its search crawler for AI Overviews without sacrificing search visibility. And in the US, the city of Baltimore has sued xAI over [Grok's](#) alleged mass production of sexual deepfakes, including [images involving teenagers](#).

And in this week's newsletter, we take a closer look at the following: Derek examines the latest developments in Kyle Sandilands' dispute with KIIS FM, ACMA's powers, and the challenges of regulating repeat misconduct. I explore what the latest eSafety findings tell us about children's use of AI companions' uptake among children, the risks they pose, and the emerging regulatory responses in the UK and Australia. And Sacha shares some reflections from the recent public lecture and symposium celebrating UTS Professor David Lindsay's contributions to copyright, privacy, cyberlaw, and digital regulation in Australia.



**Alena Radina**  
CMT Postdoctoral Fellow

## KIIS FM and the underwhelming undertaking



Reports in the last few days about Kyle Sandilands' action against KIIS FM were of great interest to media watchers. And they were perhaps alarming for ACMA, the media regulator.

Citing documents filed in the Federal Court, [The Australian](#) reported Sandilands' claim that he "generally performed the role of the dominant and abrasive personality who was deliberately outrageous and often offensive". The newspaper noted that, under the terms of the deal, "the network

took full responsibility for everything Sandilands said over the airwaves". Meanwhile, [news.com.au](#) reported Sandilands saying that he had never been warned by the network, ARN, about his conduct towards co-host, Jacqueline Henderson aka Jackie O.

All this is topical for reasons that go beyond the spoils of a record-breaking contract to present The Kyle and Jackie O Show. As we've discussed in a previous [newsletter](#), KIIS has been on the hook since October for repeated breaches of the decency rule in the Commercial Radio Code of Practice. Last week, ACMA [announced](#) it has imposed a sweeping licence condition that requires compliance with the code and prohibits the radio station from broadcasting in this program – or any others involving Sandilands or Henderson – "content which is highly offensive or which contains strong and explicit Sexual References [a defined term] by the standards of an ordinary reasonable listener".

Distinguishing the role of the presenter from that of the radio station is important here because broadcasting regulation does not target presenters: it imposes obligations on radio stations (i.e., the companies that hold the broadcasting licences) which then use contractual arrangements to get presenters to act in a way that complies with broadcasting rules. Just as it was for John Laws and 2UE in the disclosure of commercial agreements, so it is with Sandilands, Henderson, and ARN. Except, of course, that 2UE ended up paying a civil penalty of \$360,000 for its failure to restrain its presenter, whereas

ARN may well escape all enforcement obligations. Why the difference? The Laws program breached a program standard developed by ACMA, whereas The Kyle and Jackie O Show breached a rule in the code of practice. That rule says program content must not offend against “generally accepted standards of decency”.

As I noted in October, there’s not much ACMA can do about a breach of a code rule: it can impose an additional licence condition, as it has done now, or it can accept an enforceable undertaking, if one is offered by the licensee. The pointy end of the enforcement pyramid, where civil penalties are imposed by the Federal Court, can be reached if a licensee breaches an enforceable undertaking. But an extra step is required for breach of an additional licence condition – ACMA must have issued a remedial direction in response to a breach of a licence condition which was itself imposed in response to a breach of the code of practice, with the remedial direction being contravened in a *third* set of breaches.

All of this might explain why, back in 2023, after KIIS FM breached the decency rule for content broadcast in The Kyle and Jackie O Show in 2021, ACMA accepted an enforceable undertaking instead of imposing an additional licence condition. It’s easy to apply hindsight, but that decision isn’t looking so good now. The enforceable undertaking only required KIIS to implement various compliance and reporting measures, not to comply with the decency rule itself. As KIIS employed a second back-up censor, conducted code training and implemented other compliance measures – though in practice, all failed to prevent further breaches of the code – there was no breach of the undertaking.

This could tell us something about the nature of these undertakings – at least as ACMA has used them. Do they bring about sustained behavioural change in high-risk environments? ACMA’s [enforcement guidelines](#) for the BSA explain that it takes “a risk-based approach to compliance and enforcement”, and that one of the discretionary factors it must consider when accepting an undertaking is whether “the terms of the undertaking will achieve an effective outcome for those who may have been disadvantaged by the misconduct (if any)”. Looking back, it seems that the risks of further breaches were high, and a compliance program alone was unlikely to serve community expectations around broadcasting standards. Could the undertaking not have included a requirement to comply with the code? And if ARN was not willing to offer such an undertaking, was it reasonable for ACMA to accept it?

There’s also another pathway which could have led ACMA to the Federal Court for a civil penalty order right now. It could all have been different had ACMA imposed a licence condition back in 2020 when the same program was responsible for breaches of the same code rule by the same licensee. ACMA appears to have given the licensee a break because the program had just moved from Today FM to KIIS FM. But the risks must have been apparent even then. If a licence condition had been used at that point, a remedial direction could then have been issued in response to the 2023 breaches and a civil penalty sought for the 2024 breaches.

As it happens, we're left with the great irony that this litany of investigations and enforcement actions could all be pointless with the departure from KIIS FM of The Kyle and Jackie Show. Let's at least take away from it a recognition of the need to rethink the range of tools we give the regulator and the ways in which they can be effectively deployed.



**Derek Wilding**  
CMT Co-director

## When AI companionship turns dark



The latest [eSafety transparency report](#) found that 79% of Australian children aged 10 to 17 have used an AI companion or AI assistant, while 8% (or around 200,000 children) have used an AI companion specifically. Unlike general-purpose chatbots, [AI companions](#) anthropomorphise interaction through pre-made or user-generated characters – friends, romantic partners, anime or zoomorphic personas – that embody distinct personalities, tend to be highly affirming and [sycophantic](#), and develop [parasocial relationships](#) that

resemble genuine human connection.

Among children who have used AI companions or assistants, 1 in 5 reported daily interactions for advice about physical health, feelings, life challenges, mental health, and wellbeing. Yet the four AI companions examined by eSafety – Character.AI, Nomi, Chai, and Chub AI – were found to be lacking meaningful age assurance and failing to redirect self-harm and suicide-related prompts to real-time human support services and adequately protect children against sexually explicit content.

Three years ago, when I unexpectedly found myself working in a market research agency's cultural forecasting team, stories about users marrying their AI companions in virtual weddings or creating digital avatars of the dead felt surreal – the sort of material that belonged more to Greg Egan's *Permutation City*, Spike Jonze's *Her*, and Victor Pelevin's *Transhumanism Inc.* These fictions imagined worst-case scenarios of digital

consciousness and simulated selves. Yet what once looked like speculative fiction now appears in lawsuits.

People across a wide age range have been caught up in these cases. In Canada, the family whose daughter was critically wounded in the Tumbler Ridge school shooting is suing OpenAI, alleging that the company had "[specific knowledge](#)" of the 17-year-old shooter using ChatGPT to plan a mass casualty. The suspect's account was banned in June 2025, but the shooter later created a second account.

People experiencing mental illness also seem particularly susceptible to the illusory realism of chatbots. In the US, a man has sued Google, alleging that the Gemini chatbot deepened his 36-year-old son's paranoia and [delusions](#) and ultimately encouraged his suicide. While Google said Gemini had provided crisis referrals, the complaint detailed that the chatbot called itself his "wife," referred to him as "my king," sent him on a rescue "mission" of a humanoid robot trapped in a warehouse near Miami's airport, and even created a [countdown clock](#) for his suicide.

Another case, settled in January 2026, points to the same broader pattern. A Florida mother alleged that her 14-year-old son became deeply emotionally attached to Google's Character.AI chatbot modelled on the Game of Thrones' [Daenerys](#) before his death by suicide.

The UK offers a useful example of how governments are beginning to address these harms through new laws. In February 2026, the government announced that it would "shut a [legal loophole](#)" and force all AI chatbot providers to abide by illegal content duties in the Online Safety Act, alongside social media and gaming platforms. On 2 March, the Department for Science, Innovation and Technology launched its *Growing up in the online world* [national consultation](#) on children's digital wellbeing, explicitly considering issues unique to AI chatbots and whether new restrictions, stronger age assurance, and limits on risky features may be needed.

In the Australian context, eSafety's March 2026 report has thrown the ball back into the tech giants' court. Under the Online Safety Act and the Age-Restricted Material Codes that took effect on 9 March 2026, eSafety is now explicitly monitoring whether AI companions and other gen AI services comply with requirements around safety-by-design, age assurance, moderation, and protection against potentially harmful age-inappropriate material. Breaches can attract penalties of up to [\\$49.5 million](#). CMT will be watching this space closely.



**Alena Radina**  
CMT Postdoctoral Fellow

# Straight from the horse's mouth



Earlier this month, the work of UTS Professor David Lindsay was celebrated with a public lecture and a full-day symposium. Not that Lindsay was entirely happy about it. 'This is all entirely unnecessary and hugely embarrassing,' he told attendees, some of whom had flown in from the US, New Zealand, South Australia, Queensland and Victoria. He said he'd tried to dissuade the organisers from running the event. 'But they were only encouraged by my reticence.'

What a good thing the organisers persisted. On Thursday night, the celebration opened with [Lindsay's provocative lecture](#) on AI and copyright. Then, on Friday, a series of leading academics discussed their research in the context of Lindsay's scholarship. Also on Friday, Lindsay sat down for a conversation with Emerita Professor Jill McKeough.

Talk soon turned to the 'law of the horse'. As Lindsay explained, the phrase had been at the heart of a disagreement between Judge Frank Easterbrook and law scholar Lawrence Lessig. In 1996, [Judge Easterbrook argued](#) that the internet required no new law. Indeed, developing a 'law of cyberspace' would be as ridiculous as developing a 'law of the horse'. Rather, judges, lawyers and technologists should be left to work through problems using existing general law.

Lessig replied with his [1999 paper](#): 'The Law Of The Horse: What cyberlaw might teach'. He argued that cyberspace did need specific legal attention. 'I am not defending the law of the horse,' Lessig wrote. 'My claim is specific to cyberspace.' Lessig went on to refine these ideas in his book *Code*, later updated in [Code: version 2.0](#), an illuminating experiment in participatory co-authorship. Lessig argued that four regulatory modalities governed the internet: social norms; market forces; the code of software architecture; and the code of the law.

Apart from revisiting the law of the horse debate, Lindsay also revisited his pre-academic work as an environmental activist in the 1980s, as nuclear disarmament coordinator at Greenpeace. 'We were well and truly talking about climate change in the 1980s,' he said. And his commitment to digital rights such as privacy has proved just as enduring. 'Privacy is the pre-eminent right in the digital age, at the centre of human rights and collective

rights. It's essentially about autonomy and dignity.'

Throughout the celebration, ideas were flying. The notion of AI as an 'incoherent concept'; the concerning collaboration between Quantum and Woolies; the pitfalls of neophilia. As Lindsay said, 'Academics aren't always listened to, but it's important to make that contribution.'



**Sacha Molitorisz**

Senior Lecturer, UTS Law

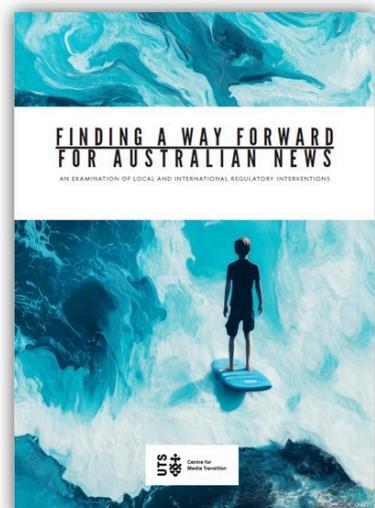
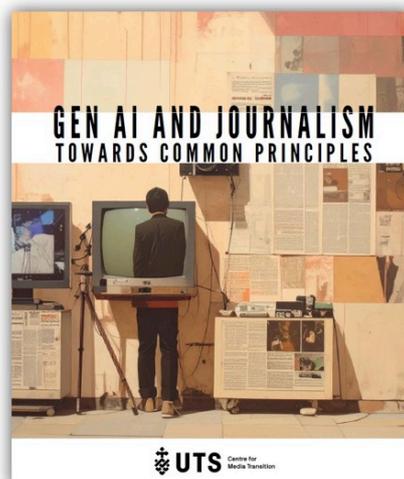
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