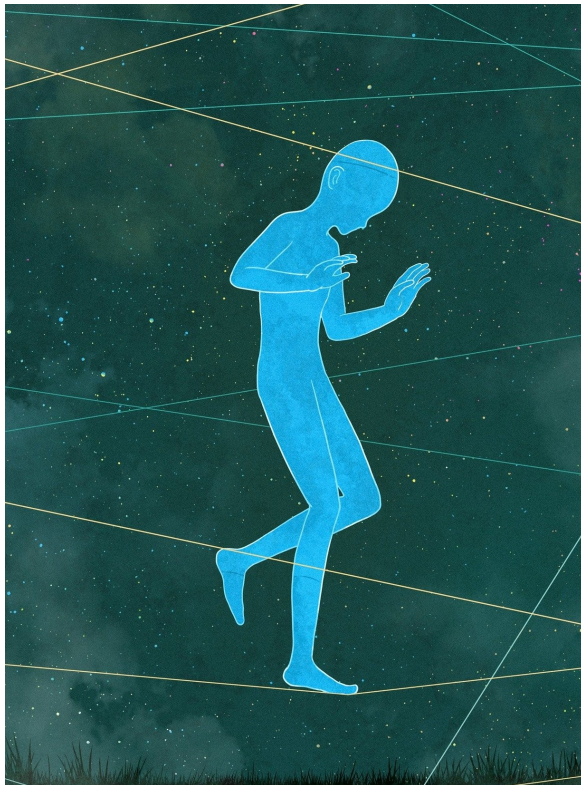


Hi there

Time to give it a go? Code pros and cons



Submissions on the ACCC's draft legislation for the News Media Bargaining Code are due today. We've all had time to think it over, but it doesn't get any easier.

What was originally a voluntary code of conduct was made mandatory after the government decided there was insufficient progress on the voluntary initiative. The ACCC was given a tight timeframe, issuing a concepts paper in May and an exposure draft of new legislation in July.

The approach adopted by the ACCC is a form of 'regulated bargaining'. There are obligations to provide information and notice of algorithm changes, and then there's the

revenue part. Digital platforms – in the first instance, just Google and Facebook – will be required to negotiate in good faith with news media to remunerate them for their news content. If agreement can't be reached, arbitration will take place. A decision on payments will be made with reference to the direct and indirect benefits derived by the platform, the cost of producing the content, and the need to avoid an undue burden on the platform.

We have reservations about this approach. At the conceptual level, we're not convinced of the merits of a bargaining scheme based on remuneration for benefits received – especially when we don't have a method of quantifying those benefits. We've said for some time that digital platforms should be recognised in our regulatory framework as service providers. Contributing to the news environment would be an obligation that comes with this

recognition.

Having said that, a lot of work has been done by government and industry to get here. If a functioning arrangement can be developed out of the ACCC approach, there is merit in locking it in and giving it a go. And the ACCC has done a good job in developing a concept of 'core news', despite many different views on what the scheme should cover. So we've also made specific comments on the ACCC's proposals. For example:

- The hard cut-off of \$150,000 in annual revenue should be softened by giving the ACMA discretion to accept some smaller operations into the scheme.
- The register of news media businesses established by the scheme should be given a secondary purpose, allowing it to serve as the basis for a media plurality database.
- An internal code of ethics is not good enough – news providers benefiting from legislative intervention under this scheme should be part of an independent standards scheme with its own complaints handling facility.
- The ABC and SBS should be part of the scheme.

We'll post the completed submission on our [policy page](#), but in the meantime, look out for more from the ACCC via its [News Media Bargaining Code site](#).



Derek Wilding
CMT Co-Director

Reimagining Media #pandemic



The Centre's Reimagining the Australian Media Landscape series began in March this year, marking the one year anniversary of the horrific Christchurch attack. It is a poignant moment as I write about our latest event in the week of the trial of the Australian shooter where the court heard from families of the victims.

Our series focuses on what professional journalists can immediately do today to foster inclusion and understanding. The virtual workshop last Wednesday examined

journalism practices in the coronavirus pandemic that help to put into true context the experiences of our diverse society.

The 'reimagining' series – a joint collaboration between the CMT, the Australian Baha'i

Community and First Draft – has taken the mindful approach to find solutions and examples that help to foster a more inclusive society, rather than pointing the finger of blame.

First Draft opened last week's workshop with an example that helped to slow negative online narratives being amplified by the media. First Draft's monitoring found racialised narratives quickly appeared on social media in relation to Victoria's coronavirus spike when it first emerged in [late June](#). On July 3, the Victorian Health Minister Jenny Mikakos said that more than 10,000 people in the state had refused to be tested, and that at least some of them said they believe the virus is a conspiracy.

But no information about which conspiracy theories were in play or how that information was gained was offered.

Journalists tweeted and shared negative reactions to the communities for 'believing such conspiracy theories'.

Through First Draft's CrossCheck network we were able to forewarn reporters of the problems with the lack of information and the harm in amplifying such tweets. I observed how the actions of the journalists changed instantaneously. Their colleagues [wrote reports](#) that countered the negative murmurings.

Journalists, academics and advocacy experts from ethnic communities discussed this scenario in the workshop. They overwhelmingly noted the norm of reporting events without consideration of diverse contexts, and that what is needed instead is a moment of pause. Take, for example, reports the Australian Defence Force door-knocked homes, where many people were 'out'.

One participant noted: 'Many minority communities have a fear of government institutions'. That person added, 'It is a privilege to open the door to a police officer with confidence'.

Participants noted when this 'event' was reported simplistically, it put fear into the community and vilified those who were not comfortable or confident.

From my observations, when media reports on events without consideration of diverse context, this feeds negative social media comments and narratives which does nothing to build society or support democracy.



Anne Kruger
First Draft APAC Director

HDR Spotlight - Rob Size

In this issue we present the first of a spotlight series on our higher degree research students. We start with Robert Size. Rob is a PhD student in the Faculty of Law and holds one the Doctoral Scholarships in Media Transition. His thesis topic is 'Publishing Fake News for Profit is Fraud'.



Rob developed an interest in the idea during the lead up to the last presidential election in the United States. As the internet became inundated with false stories, journalists and politicians treated the phenomenon as being beyond the reach of the law. The prevailing wisdom was that existing laws did not prohibit publishing false news stories and that enacting new laws would be an unacceptable intrusion upon freedom of speech.

But there were reasons to doubt this prevailing wisdom. Journalists who sought out and interviewed fake news publishers encountered similar stories. The publishers claimed that fake news was about money, not politics. They reported earning thousands of dollars in advertising revenue from their websites. And some of them admitted to employing writers to create content. Fake news was a real business.



Reading about the profits made by fake news publishers, Rob wondered why they had not been charged with fraud. At its core, fraud is the crime of making money by lying. And fake news publishers were doing exactly that—publishing lies on their websites to make money via advertising.

Rob's research argues that fake news publishers *could* be charged with *existing* fraud offences in the United States, United Kingdom and Australia. It examines the difference between conventional frauds and the arguable fraud of publishing fake news for profit. And it considers the implications for freedom of speech. Fraud is an accepted exception to freedom of speech. But would it remain so if used to prosecute those who publish false news stories on political topics?

Earlier this year, the *Santa Clara Law Review* published [an article](#) in which Rob argued that fake news publishers could be charged with wire fraud in the United States. Rob also made [a submission](#) to the Select Committee on Foreign Interference through Social Media.

BLACK STORIES MATTER

A seminar series presented by the Indigenous Land and Justice Research Hub, CAIK & Faculty of Arts and Social Sciences, UTS.

Don't miss the final in the seminar series - From media silence to media sovereignty? Looking to the future - on Thursday 3 September from 1.00 to 2.30pm.

The panel includes Ella Archibald-Binge, Indigenous Affairs reporter *Sydney Morning Herald* and *The Age*, Lorena Allam, Indigenous Affairs editor, *The Guardian*, Dr Anne Maree Payne, UTS FASS and Amy Thomas, UTS Indigenous Land and Justice researcher. Register [here](#).

The seminar series ***Black Stories Matter*** poses the question: is the media failing in the way it tells Aboriginal stories? How can the media more effectively and fairly represent Aboriginal political worlds? What does the shift from print to online and social media mean for Aboriginal stories? An edited recording of the first seminar in the series featuring Stan Grant was aired on [Fourth Estate](#) this week.

Choice and Fairness in the retail relationship



Another policy issue! Although it hasn't received as much attention as other communications policy issues, the Department of Communications' Consumer Safeguards review is an important exploration of some key aspects of telecommunications regulation in Australia. The overall review is well advanced and now up to Part C: Choice and Fairness. And the best news? A one month extension to the deadline for submissions to 24 September.

Discussion Paper and supporting documents available [here](#).

#ICYMI You can read more of our publications and the reports below on our [website](#).



Have a great weekend!

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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.



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