PLATFORMS ON TRIAL

The major digital platforms face a crisis in trust from authorities and the public. **TERRY FLEW** takes a tour around the options for granting them probation

These are tough times for digital platforms. The revelations in March 2018 that the political consultancy firm Cambridge Analytica managed to access the personal data of as many as 87 million Facebook users on the basis of an online quiz, and that this data was on-sold to third parties including Donald Trump's 2016 US presidential election campaign, threw into sharp relief questions of trust in digital platforms. The Cambridge Analytica data breaches, carried by the Guardian based on the revelations of whistleblower Christopher Wylie,[1] was the latest of many issues to arise for companies such as Facebook, Google, Twitter and other major social media companies over the past three years. For Facebook in particular, it marked the 15th occasion in the company's history where its practices with regards to personal data have come into question, an issue strongly raised in Mark Zuckerberg's two-day testimony in April before the US Congress.[2]

Concerns about the circulation of fake news, the ability to manipulate algorithms for political campaigning, alleged privacy breaches and the misuse of personal data, online abuse and harassment of women and minorities, and alleged Russian government manipulation of the 2016 US presidential election through social media platforms, have been features of the political landscape worldwide. Collectively, they constitute part of what the Economist has termed a "global techlash" against the once-feted corporate titans of Silicon Valley.[3]

The broader political environment has also become a more difficult one for the digital platforms. Whereas the relationship between Silicon Valley and the Obama administration was a generally positive one, and the policy glow of innovation, enterprise and start-ups saw the "disruptive" platforms being championed worldwide, there is a growing political backlash against these companies. Decisions as otherwise diverse as the EU's decision to fine Google €2.4bn for alleged anti-competitive practices around consumer search in June 2017, the US FCC's repeal of net neutrality rules in December 2017, the many concerns being raised about online hate speech and proposed crackdowns on fake news, and the revoking of Uber's licence to operate ride-hailing services in London in September 2017 flag a growing preparedness on the part of governments and regulators to reassert their powers. They also mark a reassertion of the power and influence of incumbent service providers – be they US cable companies or London taxi drivers – and their preparedness to draw upon leverage points within national political systems to rein in the digital platforms.

This has fed into calls for greater regulation of these platforms, with public enquiries and parliamentary hearings now taking place in several nations. These include the European Commission's communication on online platforms and the digital single market,[4] the Australian Competition and Consumer Commission (ACCC)'s digital platforms inquiry that commenced in 2018,[5] the US Senate Commerce and Judiciary Committees' investigation into alleged Russian interference in the 2016 presidential election, and the UK House of Lords Select Committee on Communications inquiry into internet regulation.[6]

> **"There is a growing preparedness by governments to reassert their powers."**

When Google, Facebook and Twitter sent their lawyers to the US Senate Commerce and Judiciary Committee hearings in 2017, Senator Dianne Feinstein noted the failure of their CEOs to attend the hearings, and observed at the Senate Select Committee on Intelligence:

"I must say, I don't think you get it. What we're talking about is a cataclysmic change ... You created these platforms, and they are being misused. And you have to be the ones to do something about it – or we will."

The US Senate Committees did secure the attendance of Facebook CEO Mark Zuckerberg to give testimony on 10–11 April 2018. Much has been made of the degree to which the 33-year-old Zuckerberg rhetorically outmanoeuvred the senators who questioned him. Writing in the New Statesman, Nicky Woolf's story was headlined, "Man makes $4bn in two days explaining Facebook to old people", referring to Facebook's share market recovery as the hearings took place. It is also fair to say that the likelihood of more substantive regulatory or anti-trust action towards Facebook or

KEVIN WOLF/AP FOR AVAAZ

When Mark Zuckerberg prepared to testify before the Senate, 100 cardboard cutouts stood outside. Advocacy group Avaaz was calling attention to "hundreds of millions of fake accounts still spreading disinformation on Facebook" and called on the social media giant to submit to an independent audit

other digital platforms in the US would appear slim under the Trump administration.

But the warning signs are clear. Companies such as Facebook, Google, Apple and Amazon are now subject to the scrutiny of politicians and regulators, and the possibility of new regulations needs to be factored into their decisions. In his response to Senator Lindsey Graham, Zuckerberg acknowledged as much when observing that "the real question, as the internet becomes more important in people's lives, is what is the right regulation, not whether there should be or not". Graham himself later noted on his own Facebook page:

"I expect the regulatory regime for a company like Facebook will be challenging and difficult. The regulatory tools available to us today may or may not work with Facebook. It could possibly take the creation of new laws and regulations to deal with this platform. But I do believe this. Continued self-regulation is not the right answer when it comes to dealing with the abuses we have seen on Facebook."

Other parliamentarians are making similar observations. Vince Cable, the leader of the Liberal Democrats in the UK, has called for the break-up of companies such as Google, Amazon and Facebook, arguing that we "must revive the trust-busting spirit of previous generations", while Andrea Nahles, the new leader of Germany's Social Democratic Party, has called for rules to govern "digital capitalism", stating that "we don't accept that more and more internet platforms are becoming monopolists that don't take responsibility for society".

THE PLATFORM-BASED INTERNET AND THE CRISIS OF TRUST

Calls for greater regulation of the internet have been around for as long as the internet itself. The Communications Decency Act, which would have made the distribution of pornography online illegal, was passed by the US Congress and signed into law by President Clinton, before being struck down by the US Supreme Court. The LICRA vs Yahoo case, where the French court found it illegal under French law for Yahoo US to auction Nazi memorabilia online, was originally heard in 2000.[7] The Australian government's plans to introduce mandatory internet filtering of obscene or offensive content were first mooted in 2006 before being abandoned in 2011.[8]

Many comparable instances of state or judicial regulation of online content can be identified. Lauren Edwards observed that the idea of the internet as a pure free speech medium had been in retreat since the early 2000s, as the platformisation of the internet meant that use had come to be increasingly associated with particular search engines or communication platforms, meaning that "there is a difficult balance to be struck between allowing these private companies the right to run their own business affairs and remain profitable, and the almost-public function that [digital platform companies] now perform".[9]

The calls for greater regulation of digital platforms comes at the intersection of two major developments, in the digital economy and society at large. The first is the platformisation of the internet, as digital platform companies have become increasingly central to both the economy and societies more generally. Vincent Mosco has observed that, in 2016, Apple, Alphabet (Google), Microsoft, Amazon and Facebook became the world's five largest companies by market capitalisation.[10] It has also been estimated that 70% of web traffic is now directed by Google and Facebook, and that Google now controls nearly 90% of search advertising, Facebook almost 80% of mobile social traffic, and Amazon about 75% of e-book sales.

Their rise is connected to the rise of platform-based companies more generally, including Airbnb, Uber and Airtasker, and questions around the lack of regulation of such platforms, which typically present themselves as enablers of interactions

(e.g. Airbnb links those seeking accommodation to private owners, rather than being a provider of accommodation), and social concerns arising from the lack of such regulation. There is therefore a growing pressure, not least from incumbent service providers, which include traditional news and entertainment businesses, to rein in the market power of digital platforms, and make their regulation more comparable to that of those in established media industries.

The larger societal context for concerns about the "black box" of algorithmic content distribution and data management[11] is the crisis of trust in social institutions, including those of the media. The Edelman Trust Barometer,[12] which has surveyed trust attitudes towards government, business, the media and non-governmental organisations (NGOs) in 28 countries and over 15 years, has found general levels of trust in these institutions to have been declining throughout the 2010s, with the sharpest declines in liberal democracies. It has also consistently found that levels of trust among the general population in these institutions are considerably lower than those of tertiary educated people in elite occupations, who constitute 25% of those surveyed in each country.

The 2018 survey found that the media was now the least trusted institution, with more people distrusting the media than trusting it in 22 of the 28 countries surveyed. The most dramatic decline was in the US, where trust in media is now massively polarised along party political lines, with only 22% of those who voted for Donald Trump in the 2016 presidential elections trusting the media.

Edelman also found that trust in media can be differentiated into two elements: trust in journalists, and hence in traditional media, and trust in digital platforms. In the majority of countries, there are now more people who distrust news media than trust it, with 70% of those surveyed across the 28 countries fearing the use of fake news as a form of information warfare. But there was also evidence of rising trust in journalism (59% in 2018 trusting journalists, as compared to 54% in 2017), and a decline in trust in platforms (from 53% in 2017 to 51% in 2018). This was associated with a sharp rebound in trust in the credibility of journalists, from 27% in 2017 to 39% in 2018, which was part of a more general increase in the preparedness to trust expert opinion, and to distrust "people like yourself" as sources of reliable opinion. Journalists were more trusted than digital platforms in 21 of the 28 countries surveyed.

An important element of the platformisation of the internet has been the rise in social news. The Reuters Institute for the Study of Journalism found, in its Digital News Report 2017, that the percentage of those accessing news from social media platforms such as Facebook, Twitter, Google and Apple News had grown from 25% in 2013 to 50% in 2017 in the US, and that there were comparable developments internationally.[13] The turn to social news is particularly marked among younger news consumers, although it is not exclusive to this group: an important trend is "multi-homing", where news content is accessed across the spectrum of digital platforms, online news sites, and broadcast media. It does, however, increasingly tie traditional news providers to digital platforms, where their content co-exists with that of a diverse array of new news providers, with differing degrees of accuracy and credibility attached to their news content. It also raises more sharply concerns about the spread of fake news and the "weaponisation of information", as digital platforms only very reluctantly curate news content by source, for fear of being identified as publishers, and hence as media companies.

OPTIONS FOR PLATFORM REGULATION

There have been many proposals flagged recently about how to get improved governance of digital platforms that better aligns their operations with the broader public interest. Historically, digital platforms have defended their role as neutral intermediaries, and IT companies rather than publishers, with this position enshrined legislatively in Section 230 of the Communication Act 1996 in the US. Section 230 "safe harbor" provisions gave what were then referred to as online service providers "broad immunity" from legal liability for content, since they both treated intermediaries as unable to police what their users say or do on their services, yet enabled them to moderate and police online content without thus becoming publishers, and losing "safe harbor provisions or being redefined as media companies".[14,15]

The European Union's e-Commerce Directive, passed in 2000 by the European Parliament, similarly identified online service providers as conduits or "hosts" of information, establishing that legal liability associated with the information itself does not reside with the digital platforms themselves.

However, it is increasingly apparent that policymakers, politicians, activists and NGOs in several countries view those rationales as inadequate in light of growing political, economic and social concerns. Reasons can vary among countries. In the US, the question of whether agents directly or indirectly "weaponised" Facebook and other digital platforms to influence the outcome of the US presidential election has been the catalyst for Congressional inquiries, as it went to the heart of national security issues in a digital age, as well as having self-evident importance to Democrats in both Houses.

In the UK, the murder of MP Jo Cox by far-right activist Thomas Mair, who had flagged his intent on social media in advance of the killing, generated considerable debate about whether digital platforms as well as governments had responsibilities towards online hate speech. The European Commission has been particularly concerned with the impact of global platforms on the digital single market. In Australia, the ACCC's digital platforms inquiry came about as a condition of support by a minor senate party then led by Nick Xenophon for the Liberal-National coalition's media reform legislation, passed in the latter part of 2016.[16]

Proposals for digital platform regulation can be understood as operating across four dimensions:

- Focus on state or non-state actors
- Focus on exit (enabling greater competition and choice) or voice (enabling greater participation and transparency)
- Formal regulation or "soft law"
- National or supranational domain of application.

The likelihood of a particular path being pursued is contingent to some degree on the institutional culture and regulatory histories of nation-states.[17] In the US, it is difficult to extend the remit of the Federal Communications Commission (FCC) beyond broadcasting to digital content in the absence of a strong Congressional will to do so, which is patently not in existence at present, so there tends to be a stronger focus on legal remedies and the role of non-state actors and grassroots campaigning for change. By contrast, the European Union has tended to take a more interventionist approach towards digital platforms, particularly in recent years.

ROADS ALREADY TRAVELLED: SELF-REGULATION AND SELECTIVE STAKEHOLDER ENGAGEMENT

The first option is corporate self-regulation. This is essentially the status quo for the last decade, where digital platform companies respond to periodic "public shocks", with profuse apologies, promises to do better, and minor changes to the user experience of their platforms. This approach has become synonymous with the Facebook CEO Mark Zuckerberg, who has made an astonishing 14 public apologies for privacy breaches in the company's 15-year history, leading Senator Richard Blumenthal to refer to the appearance before the US Congress as part of an "apology tour".[2] His appearance before the Senate on 10 April 2018 marked yet another public apology from Zuckerberg, as he said about alleged Russian use of Facebook to spread misinformation during the 2016 US presidential election: "We didn't take a broad enough view of our responsibility, and that was a big mistake. And it was my mistake. And I'm sorry. I started Facebook, I run it, and I'm responsible for what happens here."

The issue is not simply one of negligence on the part of the CEO. The question of the business model of digital platforms that provide "free" services, where access is exchanged for personal data, remains a critical one. The ACCC has posed the question of "whether consumers understand the value of the data they provide, the extent to which platforms collect and use their personal data for commercial purposes, and how to assess the value or quality of the service they receive from the digital platforms".[16]

Arie Freiberg has identified three circumstances where self-regulation may be an appropriate policy response:[18]

- Where there are no strong public interest concerns
- Where the problems are low-risk, or of low significance
- The problem can be fixed by the market itself.

None of these conditions apply to digital platforms. The concerns that have been raised have significant public interest dimensions (loss of privacy, future of news, misuse of personal data by third parties); the risks associated with misuse of platforms are potentially highly significant given their pervasiveness in the lives of so many people, and there are strong network effects associated with access to large amounts of data. In that light, the risks of self-regulation associated with conflicts of interest, inadequate sanctions for violations, lack of accountability and transparency, and the scope for anti-competitive practices, clearly outweigh any potential benefits from a public interest perspective.[18]

A second model is that of selective stakeholder engagement. This is a stronger version of corporate self-regulation, and typically involves either a platform providing more options to users in terms of managing their data and/or privacy settings based on advice from third parties, or – in a more expansive arrangement – involving selected non-government organisations (NGOs) that represent stakeholders to have a role in particular governance processes within the organisation. In the immediate aftermath of the Cambridge Analytica revelations, Facebook announced its participation in a joint programme with the Social Science Research Council in the US, Harvard and Stanford universities, and seven philanthropic foundations to support industry-academic collaborations, and will make data available to social science researchers via an independent, transparent, peer-review process to research the responsible use of social data. This would be an example of selective stakeholder engagement around who can access Facebook data for research purposes, and it has been criticised by other scholars in the field. See the box below for probably the best example.

"The risks associated with misuse of platforms are potentially highly significant given their pervasiveness."

EXIT AND VOICE OPTIONS

It is useful to understand the calls for greater regulation of digital platforms in terms of the framework of exit, voice and loyalty first proposed by Albert Hirschman[20] and adapted by Nick Couldry.[21] Arguments for exit look at market-based solutions to the power of digital platforms, such as competition measures or the promotion of alternative digital platforms. The Economist has flagged the issue of competition actions being pursued against Facebook and Google, which could lead to the structural separation of Instagram and WhatsApp from Facebook, and YouTube from Google.[3] Others have advocated the development of alternative platforms.

Timothy Wu has argued that the challenge is not to "fix" Facebook, as data harvesting is too deeply embedded in its business model, but rather to promote alternatives.[22] This could be an alternative social media platform that trades a modest subscription for guaranteed data protection – the example of Lyft being a competitor to Uber comes to mind – or some form of non-profit entity, with Wikipedia perhaps providing one model for a potentially more cost-effective and civically-minded social media platform. The issue is not simply one of an alternative platform, but an alternative business model that is less reliant on providing personal data as the condition for accessing free services. Ello has had some success in this regard in the US, although its user base is a small fraction of that of Facebook.

One challenge is that alternative platforms could turn out to be worse than the established platforms: leaving Twitter for Gab (the ad-free social network for those who "cherish liberty") would seem

TRUST AND SAFETY COUNCIL

The best known example of a more formal arrangement is the Trust and Safety Council established by Twitter in 2016, which brought together 40 NGOs to advise on issues relating to online abuse, harassment, mental health, bullying, media literacy and digital citizenship. Not a lot is known about how the council interacts with Twitter about decisions that involve suspending accounts, tackling online abuse, and balancing its strongly held commitment to free speech with its reputation as a platform given a disproportionately high amount of abusive behaviour among its user base. One of the major criticisms of Twitter has been its inability to maintain a clear line as to what constitutes unacceptable behaviour on its platform, which in turn points to the limitations of a corporate self-regulatory approach that selectively includes stakeholders from the NGO sector.[19]

an odd move if one wants to get away from abusive behaviour and poorly argued conspiracy theories. There is also no guarantee that alternative digital platforms will be more accountable or transparent than the established ones. Companies such as Apple and Google, for instance, were once poster children for a more ethical and responsive corporate culture than those whom they challenged.

Much of the concern about digital platforms stems from the wish for something more like a partnership, where the inevitable trade-off of various forms of freely available access (to search, community, news, opinion, entertainment etc.) for personal data comes with some form of accountability, transparency and capacity to control one's own digital rights. Writing in pre-internet times, Albert Hirschman referred to this as the demand for voice, which he defined as "any attempt at all to change, rather than to escape from, an objectionable state of affairs".[20] He viewed the capacity to exercise voice as essential to meaningful citizenship in democratic societies, where "it has long been an article of faith ... that the proper functioning of democracy requires a maximally alert, active, and vocal public."

Whereas debates about social media in the late 2000s and early 2010s tended to be about the capacity of social media to enable new voices to be heard in the public sphere, the contemporary debate is about the capacity to exercise voice over the digital platforms themselves, particularly around their uses of personal data. Couldry saw this as the difference between the capacity to speak, and the right to have one's voice meaningfully responded to by powerful social institutions, with the associated need for "new ways of valuing voice, of putting voice to work within processes of social cooperation".[21] While there is an extensive literature on how social media has been used to make demands for voice and participation in politics, there is now a growing demand for greater transparency and accountability of digital platforms themselves.[15]

MEDIA POLICY REGULATION

The key question in this regard is whether digital platforms should be subject to media policy regulation similar to that for established publishers and broadcasters. Historically, digital platforms have benefited from the provisions of legislation such as Section 230 of the US Communications Act 1996, which identified "safe harbor" provisions for internet service providers, and has provided legal indemnity for digital platforms in two respects.[14] The distinction between carriage and content, which was a feature of communications policy debates in the 1990s, has meant that digital platforms have been able to evade classification as publishers or broadcasters, while still having the capacity to regulate, monitor or delete user content without losing their "safe harbor" protections. This draws on the distinction made in US law between those who provide information and content, and hence can be held liable for it, and those who distribute or carry the content of others.

Several scholars have been challenging this distinction. Tarleton Gillespie has noted that interventions to manage and curate digital platforms have continued to grow, as "social media platforms have increasingly taken on the responsibility of curating the content and policing the activity of their users: not simply to meet legal requirements, or to avoid having additional policies imposed, but also to avoid losing offended or harassed users, to placate advertisers eager to associate their brands with a healthy online community, to protect their corporate image, and to honour their own personal and institutional ethics."[15] Robert Picard and Victor Pickard make the point that "these firms are increasingly monitoring, regulating, and deleting content, and restricting and blocking some users, functions that are very akin to editorial choices".[23] They acknowledge that the issue is a difficult one, as "platform responsibilities might differ from those of traditional publishers". For example, they are expected to be open to the distribution of user-generated content to a degree that would never be expected of traditional publishers or media broadcasters.

Others have observed that "the framing of social media platforms and digital content curators purely as technology companies marginalises the increasingly prominent political and cultural dimensions of their operation, which grow more pronounced as these platforms become central gatekeepers of news and information in the contemporary media ecosystem."[24] It is also increasingly at odds with how they are operating in practice, as they are not only strongly engaged in the curation of content on their own sites, but also increasingly commissioning original content for their digital platforms. The discourse of companies such as Google and Facebook has been shifting over time, from insisting that they are not media companies at all – they are simply technology companies – to one where they argue that they are not traditional media companies.[24]

If digital platforms are to be subject to media policy regulations, there are clearly implications for how those regulations are themselves constructed. Traditional forms of content regulation would be impossible to apply to a platform such as YouTube, which generates over 300 hours of original video content per second. Similarly, regulations to support particular forms of content production would work differently for subscriber-driven platforms such as Netflix and Amazon Prime to how they have worked for traditional broadcasters. Given the expectation that platforms such as Facebook and Twitter should remain open to their users to be the primary generators of content, and the difficulties in constructing a consensus around what constitutes "inappropriate content", the point is made that "accountability and attendant punitive actions need to be exercised in measured ways to ensure that free expression is not unduly restricted... The most serious breaches of laws and norms should typically be handled through legal and regulatory mechanisms and less serious breaches through self-regulatory private mechanisms".[23]

CO-REGULATION AND 'SOFT LAW'

It is in this context that the concepts of soft law and co-regulation become relevant. Co-regulation has been a feature of regulatory theory for some time, and is premised upon the notion that regulators can set the general rules and laws, and industry can oversee the operational dimensions of their application, subject to oversight from the government regulators and the parliament. It typically requires the existence of a third party between government and the regulated firms to set and enforce rules and standards, and can be advantageous when there is both a public interest in regulation but a need for government to have some distance from the process, whether due to the costs of regulation or the need for proximity in order to have ready access to relevant information.[18]

For soft law (see box opposite for explanation) to have teeth, it requires the oversight of independent public agencies that are nonetheless trusted by the parties who are subject to such provisions. It also needs clear backing by state regulation and civil and criminal law ("hard law") if required. The potential of

soft law is that it recognises the difficulties of simply applying existing laws and regulations designed for publishers or broadcasters to Google or Facebook, as they do not identify with these traditional media industry models. It would enable digital platform companies to have a role in shaping the regulatory requirements they are subject to. It is also conceivable that provisions could be developed by government agencies working with digital platform industry stakeholders.

CONCLUSION

The days of unregulated or self-regulated digital platforms appear to be coming to an end, at least for the largest platforms. While the calls of various politicians, public interest groups, activists and others may at times appear poorly informed or self-interested, they are now continuous and rising in scale and volume, and are being articulated as public interest issues that necessitates some form of policy action. The generalised crisis of trust in public institutions identified by Edelman and others has taken a particularly sharp form for the leading digital platforms, and the platformisation of the internet has thrown into doubt claims that some form of regulation would be an unreasonable inhibition upon freedom of public expression. Simply going from public shock to public shock, with a retrospective promise to "do something", is no longer sufficient.

It is the contention of this article that some form of co-regulatory arrangement, bound up with soft law approaches to enactment and enforcement, is the most likely direction that such regulation will take. For such arrangements to be effective, there will be a need to clarify what are those matters of concern that are most open to codification of rules, laws, elements of good practice, and areas of regulatory breach. Consumer and data protection, anti-competitive practices and the exercise of market power, political advertising, fake news and online hate speech are among the areas around which rules can be developed (although, in reality, there will be contention in all of these areas). Issues such as whether social media generates online filter bubbles, job losses in the traditional media industries, or whether users become addicted to digital platforms, are not so readily addressable through co-regulatory codes.

Independent third-party oversight is critical. Digital platforms have good reason to be suspicious of regulation by governments of online content, as do their user communities. There are too many governments reacting to social and political unrest by cracking down on social media and online content. At the same time, there needs to be a regulatory authority with credibility and teeth. It is apparent from the failures of self-regulation and co-regulation in fields such as finance that the application of rules and principles will be ineffective in the absence of both ethical change on the part of regulated entities, and "a fundamental cultural change in the way business values are seen in government, by regulators, in the courts, in the community and in business itself".[26] While an independent regulator cannot itself engineer such a change, it can use the enforcement of sanctions in response to breaches of such codes as occasions in which to broadcast the requirements of ethical practice in online spaces.

With regards to media policy, the implications of the rise of digital platforms to a position of dominance in media industries and the platformisation of the internet are two-fold. On the one hand, they point to the need for fundamental reform of media laws to recognise that the 21st century digital environments differ profoundly from those of mass broadcast media. At the very least, they imply the need to move beyond industry-based silos that focus on the platform of delivery, rather than the underlying principles, as the basis of regulation. On the other, such laws themselves need to be future-proofed. The relative incapacity of governments to regulate digital platforms in the current context arises in part from policy decisions made in the 1990s, where the carrier/content distinction was paramount, and where digital platforms were constructed primarily as online service providers, as simply facilitators of public conversation, rather than as powerful institutional entities routinely engaged in "algorithmic governance" of digital public spaces.

WHAT IS 'SOFT LAW'

The concept of soft law is originally derived from international law, and refers to the use of quasi-legal processes, including rules, norms, guidelines, codes of practice, recommendations and codes of conduct, which are typically applied at an industry level, to enforce appropriate corporate behaviour. Jessika van der Sluijs has made the point that effective applications of soft law requires:[25]

- An institutional framework to be in place that creates a compulsion to cooperate among regulated entities
- Clearly identifiable entities that are subject to the regulatory processes
- An apparatus to address non-compliance and to ensure that sanctions are enforced when rules are broken
- Clear channels of communication of the rules, breaches, responses and evidence of compliance or redress.

TERRY FLEW *is professor of media and communications in the Creative Industries Faculty at the Queensland University of Technology, Australia.*

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