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Editorial: Regulating the Digital Economy

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Abstract

This editorial comes in three parts: some observations on the growing need to regulate the digital economy more effectively; a brief introduction to the papers in this issue; and some updates on the editorial team that produces the Journal of Telecommunications and the Digital Economy.

Regulation and the Digital Economy

In this issue, we publish a significant paper by Derek Wilding (2021 [5]), co-Director of the Centre for Media Transition at the University of Technology Sydney. He outlines the policy considerations that lay behind the development of two recent initiatives for regulating digital platforms in Australia. Both were developed in response to Australia's Digital Platforms Inquiry (ACCC, 2019 [6]) but the outcomes were very different. He describes the formulation of regulation in these cases as 'haphazard'. We also publish a second paper (Hile, 2021 [7]) that questions the effectiveness of some aspects of the laws governing data breaches in Australia.

These are examples – and there are many others – of how the regulation of the digital economy has developed in a piecemeal and ad-hoc manner, in Australia and globally. Yet the digital economy is a key driver of significant economic growth across a wide range of countries, as another paper (Mgadmi *et al*., 2021 [8]) in this issue shows. It is therefore important to develop a coherent and consistent approach to regulating the digital economy.

There is an obvious need at the basic level of law enforcement for greater government intervention in the digital economy. We hear regularly of 'ransomware' attacks and other types of criminality unique to the online environment. (In Australia, the ACCC's Scamwatch page (ACCC, 2021 [9]) reports AUD 30 million in losses for May 2021 and AUD 108 million in losses for the year to date.) In addition, there are many references to the 'dark web' and the marketplaces that are available there. Clearly, citizens and businesses are not as protected from criminality in the digital economy as they should expect to be.

In relation to regulation generally, it is common to consider issues at three levels: content, competition, and technical.

For content regulation on the World Wide Web, the internationally popular American websites keep 'objectionable' material off their sites in conformity with perceived social norms and American law. Other countries, including liberal democracies like Australia, then add further restrictions on hosting or disseminating such content. The control of some content is more contested, with, for example, 'hate speech' overlapping with 'free speech' in some people's minds. Yet, we see more and more stories of users, especially women and young people, being harassed online. This again gives rise to ad-hoc responses, with social media companies imposing their own rules, often belatedly and after publicly expressed concern. While there may also be legal restraints, they are often slow to be enforced, and therefore are often of limited effect.

On competition, the ACCC found (ACCC, 2019 [6], chapter 2) that Google and Facebook are each dominant in several markets in Australia. This result would apply in many jurisdictions. The ACCC will be enquiring further about methods to lower the barriers to entry by competitors, including opening up user data held on dominant platforms to be accessed by other applications. It remains to be seen how effective or fundamental such changes could be.

At the technical level of 'control' of the Internet, the situation, while working surprisingly well, is not entirely satisfactory. The Internet Engineering Taskforce (IETF) has developed an 'open' system of development that keeps the Internet connected and working, but it does not – perhaps cannot – respond to all pressures on the network. For example, we have seen the rise of Content Delivery Networks (CDNs), essentially private internets, that work around performance deficiencies in the public Internet. Most of the content accessed every day by online users is handled by the CDNs; many large businesses depend on their websites and content being mirrored on the CDNs. Yet, again, the CDNs are largely hidden from public scrutiny except when a failure occurs.

At a more public level, there are often ‘guarantees’ that user data will stay within a jurisdiction; for example, that Australian government data on citizens should be stored and accessed only in Australia. On the Internet, however, there is no guarantee that data passed from one Autonomous System (AS) to another – the ASs are the building blocks of the wider Internet – will not transit via another country. While routing errors between ASs are rare (see, for example, Al-Musawi, Hassan & Alturfi, 2020 [10]), they do occur and could potentially be introduced with malicious intent.

Confounding the need for greater regulation and a more coherent approach is the ‘international’ nature of the Internet and the World Wide Web, where no one government can regulate the entire system. Governments are starting to take coordinated action to amend tax laws, to overcome revenue-shifting by international companies, so there is hope that more international action on supporting the digital economy could be possible. This is tempered by fear in some quarters of governments with whose policies one does not agree (see, for example, Dupont, 2020 [11]) having undue control.

In conclusion, then, it is clear that the current methods, as they exist today, for regulating the Internet and Web are immature and incomplete. As the digital economy becomes an ever-larger part of the total economy, however, the need for more coherent and less ad-hoc regulation will grow. The response will undoubtedly have a profound effect on how the digital economy develops.

In this Issue

We publish in this issue three papers related to public policy.*The Broadband Futures Forum: Regional and Rural Broadband Access* continues our series of reports on TelSoc forums concerning the future of broadband access in Australia, this one from March 2021. *Regulating News and Disinformation on Digital Platforms: Self-Regulation or Prevarication?* describes the policy considerations behind recent changes in Australian law to regulate aspects of the digital economy and assesses the outcomes. *Dude, Where’s My Data? The Effectiveness of Laws Governing Data Breaches in Australia* analyzes the laws governing liability in the case of data breaches and identifies a deficiency.

In our Digital Economy section, we publish one paper,*Revisiting the Nexus between Digital Economy and Economic Prosperity: Evidence from a Comparative Analysis*, which looks at the relationship between the digital economy and economic prosperity in developed and developing countries.

In our Telecommunications section, we publish two papers.*Policy-based Interaction Model for Detection and Prediction of Cloud Security Breaches* describes a new model to provide security for transactions in the cloud. *Australian Mobile Survey 2021: Mobile Buying and Churn Drivers Stable* continues our series on surveys of consumer attitudes.

In our History of Telecommunications section, *eLaunceston Revisited – A Novel Regional Research Project from 1999* reprints a paper looking back to a time before ubiquitous social media, when experiments were undertaken to assess the value of local content and the drivers for Internet take-up.

As always, we encourage you to consider submitting articles to the*Journal* and we welcome comments and suggestions on which topics or special issues would be of interest.

New Members of the Board of Editors

We continue to strengthen the Board of Editors, volunteers who give their time to encourage authors to submit to the *Journal*, assist with arranging reviews of submissions in our double-blind, peer-review process, and help with other tasks necessary to bring a new issue to you each quarter.

We welcome three new members of the Board of Editors: Associate Professor Sultana Lubna Alam from Deakin University, Australia; Dr Maria Massaro from Korea University, Republic of Korea; and Professor Ashraf Tahat from Princess Sumaya University for Technology, Jordan. A recent paper by Professor Tahat and his colleagues (Tahat *et al.*, 2020 [12]) was published in the *Journal* last year. The addition of these new editors will strengthen the regional and international perspectives of the *Journal*.

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