

Editors' Note

Well, first, may we wish you all a merry Privacy Awareness Week and a happy World Intellectual Property Day!

In early March of this year, we published the previous edition - the first of 2018. And, what a few months it has been since!

The EU's game-changing privacy law, the **GDPR**, is coming into effect on 25 May 2018, and it affects Australian businesses. More about that inside. The Government responded to the **Productivity Commission's** report on data availability and use. The OAIC released its report on **Data Analytics and the APPs**, and its first quarterly report on the mandatory notifiable data breach scheme, finding that in about two months, 63 data breaches had been notified, as compared to 114 on a voluntary basis for the whole 16-17 financial year. Almost a quarter of notifications came from the **health service providers** industry. More about that inside.

Information came to light about the way **Cambridge Analytica** was processing information collected from **Facebook**, which caused a bit of stir. Users moved to publicly #DeleteFacebook in a protest. Class action suits were commenced. Mark Zuckerberg was summoned to testify before Congress. Regulators around the world are investigating. Here, the Privacy Commissioner opened an investigation on 5 April 2018, and the Australian Competition and Consumer Commission is shifting the focus of its digital platforms inquiry to privacy protection and the fairness of Facebook's terms and conditions. Facebook shares plummeted in the week and a half after the revelations, proving once and for all how costly it is to not comply with privacy law. Then, a couple of months later, they went back up to what they were previously - proving that there either is or isn't a moral to this story. More about Facebook inside.

On the topic of the **ACCC inquiry into digital platforms**, submissions have been published. There were 57 in total, including contributions from most major Australian media organisations, industry bodies, unions and advertisers. In a 144-page submission, **News Corp** submitted that a number of digital platforms possess substantial market power and are engaging in anti-competitive practices that prevent publishers from competing on the merits. The **MEAA** estimated that since 2011, a quarter of all journalists in Australia have been made redundant. **Foxtel** complained of "unauthorised hosting and distribution of copyright material by digital platforms, material that is created and paid for by the platforms' competitors", and gave examples of Fox Sports content available on YouTube.

In the Government's **competitive neutrality inquiry**, the expansion of the ABC's online news service, ABC iView, SBS On Demand and other services, is being examined in light of complaints from Foxtel, News Corp and Fairfax about taxpayer-funded media crowding them out.

Dodo, **iPrimus** and **Commander** have undertaken to offer remedies to customers who couldn't receive the internet speeds they bought because their **NBN** connection was incapable of delivering it. The **ACCC** has separately commenced proceedings against **Telstra**, alleging that false or misleading representations were made to consumers in relation to its third-party billing service known as Premium Direct Billing. It appears the parties have agreed to consent orders, which involve Telstra paying pecuniary penalties totalling \$10 million.

On the defamation front, the jury in **Sophie Mirabella's** claim against the **Benalla Ensign** held that an article that she pushed **Cathy McGowan** was defamatory. **Geoffrey Rush** succeeded in preventing **Nationwide News** joining the **Sydney Theatre Company** as a co-defendant in the proceedings, although the Court did not rule out Nationwide News seeking to pursue the Sydney Theatre Company for contribution by way of separate proceedings. And **Stormy Daniels** is suing **Donald Trump**.

In this edition, we have a chat with **Geoffrey Robertson QC** about free speech, censorship and defamation. **Demetrios Christou** and **Eva Lu** from Thomson Geer discuss the Cambridge Analytica story. **Peter Leonard** from Data Synergies gives us the second part of his thoughts on the new data breach law, this time taking us through data breach laws around the world. Over at Allens **Valeska Bloch** sets out some of the issues to arise out of the mandatory data breach notification scheme, and **Gavin Smith**, **Jessica Selby** and **Claudia Hall** discuss the implications of the Federal Government's response to the Productivity Commission's report on data availability and use. **Michael Boland** interviews Seven's commercial director, **Bruce McWilliam**. We have two pieces from our friends at MinterEllison, the first by **Veronica Scott** and **Ashleigh Fehrenbach** on the GDPR, and the second piece about the cabinet papers scandal from **Katherine Giles**. Two of our essay competition's finalists are published: **Penelope Bristow** on the challenges of defamation law in a social media environment, and **Claudia Carr** on Net Neutrality in Australia.

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