

BUDPRING LINES



**Australian
Digital Alliance**

Australian Digital Alliance Copyright Forum 2020
Friday 6 March 2020, National Library of Australia

PROGRAM

The lines are blurring in digital regulation.

For much of its long history copyright law has been just that – copyright law. But in the wake of developments like the GDPR and the Christchurch Call, it is increasingly hard to keep copyright siloed from related rights issues.

At this year's Forum, we look at the way copyright is influencing, or being influenced by, its neighbours in areas such as free speech, surveillance, privacy, cybersecurity, traditional knowledge and private law.

8:30 REGISTRATION

9:00 WELCOME & OPENING

9:10 COPYRIGHT IN 2020

Hon Paul Fletcher MP

Minister for Communications, Cyber Security and the Arts

The importance and challenges of copyright in a dynamic global market.

9:40 COPYRIGHT V. THE INTERNET

Professor Anupam Chander

Georgetown Law, Georgetown University

A quarter-of-a-century ago, many declared that the rise of the internet would end copyright. Others warned that the laws fashioned to protect digital copyrights would bar critique and lead to monopoly pricing. But far from the end of copyright in the vice grip of the internet, or the end of critique in the vice grip of copyright, we inhabit an era of both creativity and critique. The years since the emergence of the internet have even been described as the golden age of television. From smartphones to web search to cloud computing, digital innovations depend on flexibilities in copyright law.

But some seek to undo the balance that created today's internet. What's more, existing copyright law may not be ready for the next generation of innovations, from the internet of things to artificial intelligence. American-style limited fair use, which saved Sony's videocassette recorder, proved a lifeline for Silicon Valley companies as well, but is now attacked as "ill-considered" by the United States when South Africa considers importing it into its law. Ever stronger copyright threatens privacy, speech, and competition. Automated enforcement of copyright undermines speech as AI systems fail to distinguish copying from critique. Extensive copyright enforcement would also require widespread surveillance of internet activities—from deep packet inspection of university networks to non-anonymous use of wi-fi. Rights over APIs can entrench existing software providers against competitors.

Balanced properly with other values, copyright can survive in the digital world, and even thrive as the last quarter of a century demonstrates. Unbalanced, it can threaten the internet itself.

10:40 MORNING TEA

**11:00 A CONSTITUTIONAL MOMENT FOR THE 'NET:
PROTECTING HUMAN RIGHTS ONLINE**

*Professor Nicolas Suzor
QUT School of Law and Digital Media Research Centre,
Queensland University of Technology*

Modern technology companies – telecommunications providers, search engines, content hosts, and social media platforms – play a major role in shaping our social lives. We are at a crucial moment now for the future of internet governance; there are mounting (and often conflicting) pressures for technology companies to do more to resist censorship, promote privacy rights, and combat abuse, hate, and extremism. Many people expect more from technology companies, but there are also dangers to enacting new rules that could stifle speech, limit competition, and reduce innovation. This presentation examines how international human rights norms can help negotiate these complex issues and provide a guide to the responsibilities of technology companies to govern their networks in ways that benefit us all.

11:50 **COPYRIGHT ECHOES IN DIGITAL REGULATION IN AUSTRALIA**

Sunita Bose

Managing Director, Digital Industry Group Inc (DIGI)

Ellen Broad

Senior Fellow, 3A Institute, Australian National University

With so many considerations, and so much at stake, how do we make digital regulation work now and into the future?

12:30 **LUNCH**

13:30 **FIRST STEPS: ENGAGING WITH FIRST PEOPLE'S CULTURAL EXPRESSION AND KNOWLEDGE**

Dr Terri Janke

Solicitor Director, Terri Janke and Company

Managing Indigenous Peoples' Knowledge across the digital platform requires consideration of Indigenous Cultural and Intellectual Property rights. Indigenous people are, and should continue to be, knowledge holders of their cultural heritage. Indigenous peoples' have the right to manage and control the use of their images, cultural expression and heritage information. To address this, institutions should adopt cultural protocols, consultation and consent processes. In this presentation, Dr Janke will outline True Tracks protocols and provide a summary of the AMaGA, First Peoples: a roadmap for enhancing Indigenous engagement in museums and galleries, which her team worked on in 2017–2019.

14:20 **ICIP IN PRACTICE**

Karen Manton

Project Officer, CALL Collection, Library and Information Services, Batchelor Institute of Indigenous Tertiary Education

Kirsten Thorpe

Senior Researcher, Jumbunna Institute for Indigenous Education & Research

Two projects share their experiences working with collections and communities to manage First People's Cultural Expression and Knowledge in collections.

15:00 AFTERNOON TEA

15:20 DEVELOPMENTS WITH STANDARDS AUSTRALIA

Margaret Allen
State Librarian of Western Australia

Standard Australia's Distribution and Licensing Policy Framework was released in November last year so why do we still not have public access to Standards through libraries?

15:40 E-LENDING PROJECT: LAUNCH OF NATIONAL LIBRARY SURVEY RESULTS

Associate Professor Rebecca Giblin
ARC Future Fellow and Director, Intellectual Property Research Institute of Australia (IPRIA), Melbourne Law School, University of Melbourne

This session sees the launch of results from the National Library survey being run by the E-Lending Project (elendingproject.org).

16:00 INDYREADS: A NEW APPROACH TO CONTENT LICENSING AND COLLECTION CURATION

Ross Balharrie
NSW.net Services Delivery Coordinator, State Library of New South Wales

The indyreads eContent management platform brings 9,000 new e-book and audiobook titles to the NSW public library network. Learn about the licensing arrangements that made it happen.

16:30 CLOSE

SPEAKERS



MARGARET ALLEN

CEO and State Librarian, State Library of Western Australia

Margaret Allen PSM, FALIA has been the CEO and State Librarian of the State Library of Western Australia since 2004. The State Library has responsibility to collect, preserve and make available Western Australia's documentary history as well as a leadership role with WA's network of 233 public libraries. The State Library's Better

Beginnings program is recognised as Australia's most innovative and extensive family literacy program reaching more than 650,000 families since its inception.

Margaret's professional achievements include Chair of the IFLA eLending Working Group, Chair of the Australian Libraries Copyright Committee, Board member of the Australian Digital Alliance, past President of the Australian Library and Information Association (ALIA), member of the Public Lending Right Committee, member of the ALIA Book Industry and eLending Advisory Group, Secretary of the International Federation of Library Associations and Institutions (IFLA) Public Libraries Section and member of the IFLA Governing Board (2015–2017). Margaret was awarded a Public Service Medal in 2018 for outstanding public services to the library sector.



ROSS BALHARRIE

NSW.net Services Delivery Coordinator, State Library of New South Wales

Ross Balharrie is a member of the Public Library Services Branch at the State Library of New South Wales. Working within the NSW.net team Ross manages the NSW Public Library Consortia Opt-in Offer Scheme for digital resources along with the Statewide Suite of

Licensed databases. A core component of Ross's work is to identify, investigate, trial and develop innovative and specialised digital content and access and discovery solutions for future application in public libraries.

Ross is currently the project manager for the indyreads local eContent management platform initiative. indyreads will provide the NSW Public Library Network (NSWPLN) with the technological infrastructure and legal framework to enable libraries to become local aggregators of independent published material and the best examples of self published content. The platform can also host digitised

local studies content specifically, manuscripts, books, journals, ephemera as well as oral histories and transcripts. Taking inspiration from similar initiatives in the US such as SELF-e and Illinois Soon to be Famous, indyreads aims to provide public libraries with a new way to engage with and support local publishers and community authors.

SUNITA BOSE

Managing Director, Digital Industry Group Incorporated (DIGI)

Sunita is the Managing Director of the Digital Industry Group Incorporated (DIGI), a non-profit industry association that advocates for the interests of the digital industry in Australia, with members including Google, Facebook, Twitter and Verizon Media. DIGI's vision is a thriving Australian digitally-enabled economy that fosters innovation, a growing selection of digital products and services, and where online safety and privacy are protected.

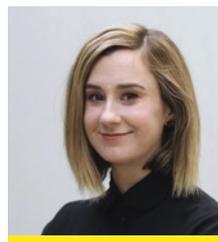
For over five years, Sunita Bose was the Head of Global Policy for the online petition platform Change.org, based in San Francisco. She developed the company's Privacy Policy, Terms of Service and Community Guidelines and the company's policy infrastructure to manage harmful user-generated content, in areas such as bullying, hate speech, defamation, fake news, copyright, personal information exposure, child protection and data sharing requests. Sunita previously worked in strategic communications and advocacy at international aid agencies Oxfam and UNICEF, and has a Masters of Policy from the University of New South Wales, where she focused on organisational policy.



ELLEN BROAD

Senior Fellow, 3A Institute, Australian National University

Ellen is a Senior Fellow with the 3A Institute, founded by Distinguished Professor Genevieve Bell, within the College of Engineering and Computer Science at Australian National University. Despite having undergraduate degrees in law and English literature, Ellen's career has always been in technology, spanning policy, standards and engineering. Previous roles have included Head of Technical Delivery for the Consumer Data Standards program with CSIRO's Data61, Head of Policy for the Open Data Institute (ODI), ministerial adviser on data to senior UK cabinet minister Elisabeth Truss and Manager of Digital Policy and Projects for the International Federation of Library Associations and Institutions in the Netherlands.



In Australia, she was Executive Officer for the Australian Digital Alliance. She is a member of the Australian government's Data Advisory Council and author of *Made by Humans: the AI Condition* (Melbourne University Publishing, 2018), which was included in The Best Australian Science Writing 2019 and shortlisted for the ACT's Book of the Year. She has been featured in publications including *The Guardian*, *New Scientist* and *Griffith Review*. A board game about data she created with Jeni Tennison, CEO of the Open Data Institute, is being played in 19 countries.



PROFESSOR ANUPAM CHANDER

Professor of Law, Georgetown University

Anupam Chander is Professor of Law at Georgetown. A graduate of Harvard College and Yale Law School, he clerked for Chief Judge Jon Newman of the Second Circuit and Judge William Norris of the Ninth Circuit. He practiced law in New York and Hong Kong with Cleary Gottlieb. He has been a visiting law professor at Yale, Chicago, Stanford, Cornell, and Tsinghua. He previously served as Director of the California International Law Center and MLK, Jr. Professor of Law at UC Davis. A member of the American Law Institute, he has served on the Executive Council of the American Society of International Law.

An Adjunct Senior Research Scholar at Columbia's School of International and Public Affairs, he serves as a judge of Stanford's International Junior Faculty Forum. A recipient of Google Research Awards and an Andrew Mellon grant, he serves on a World Economic Forum expert group and is the author of the book, *The Electronic Silk Road* (Yale University Press).



THE HON PAUL FLETCHER MP

Federal Member for Bradfield, Minister for Communications, Cyber Safety and the Arts

Paul Fletcher MP is the Minister for Communications, Cyber Safety and the Arts in the Morrison Government. He entered Parliament in December 2009 as the Member for Bradfield; was appointed Parliamentary Secretary to the Minister for Communications in September 2013; Minister for Major Projects, Territories, and Local Government in September 2015; Minister for Urban Infrastructure in July 2016; Minister for Urban Infrastructure and Cities in December 2017; Minister for Families and Social Services in August 2018 and was appointed to his present role in May 2019.

Before entering Parliament, Paul was Director, Corporate and Regulatory Affairs, at Optus for eight years; established a consulting firm serving the communications sector; and in 2009 his book about broadband, *Wired Brown Land* was published by UNSW Press.

Earlier in his career Paul was Chief of Staff to the Minister for Communications in the Howard Government, Senator Richard Alston. He has dual first class honours degrees in law and economics from The University of Sydney and an MBA from Columbia University in New York where he was a Fulbright Scholar.

Paul has been a member of the Liberal Party since he was 16 and was active in student politics at Sydney University. He was a champion university debater, twice reaching the finals of the World Universities Debating Championship.

ASSOCIATE PROFESSOR REBECCA GIBLIN

Australian Research Council Future Fellow and Director, Intellectual Property Research Institute of Australia (IPRIA), Melbourne Law School, University of Melbourne

Rebecca Giblin is an ARC Future Fellow and Associate Professor at the University of Melbourne, where she is the director of the Intellectual Property Research Institute of Australia. She heads up the E-lending (elendingproject.org) and Author's Interest (authorsinterest.org) ARC research projects and reads far too many books.



DR TERRI JANKE

Solicitor Director, Terri Janke and Company

Terri Janke is a Wuthathi/Meriam woman from Cairns. She is an international authority on Indigenous Cultural and Intellectual Property (ICIP) and is known for innovating pathways between the law and the cultural rights of Indigenous peoples. As the owner and Solicitor Director of Terri Janke and Company, she empowers Indigenous peoples to assert their ICIP rights and prosper in their business and creative endeavours. She advises on legal matters including incorporation, joint venture, procurement, governance, employment and engagement. She has written leading ICIP protocols and models for various sectors including the arts, museums, archives, film and business. Terri is also a valued mentor and an accredited mediator and governance expert.





KAREN MANTON

*Project Officer, CALL Collection, Library and Information Services,
Batchelor Institute of Indigenous Tertiary Education*

Karen Manton has worked at Batchelor Institute of Indigenous Tertiary Education for the past 17 years. She currently works in the Library, as Project Officer with the CALL Collection, an Australian Indigenous languages collection. CALL is the Centre for Australian Languages and Linguistics, and includes language projects and Batchelor Institute Press.

Karen has worked with Terri Janke and Company on the Collection's website end user licences, creator agreements for materials on the website, and a protocol framework for the Collection. Previously she was Publications Officer for the Institute and worked with Batchelor Institute Press which publishes materials in endangered languages. Her work has included a focus on Indigenous Cultural and Intellectual Property, copyright, privacy, consent agreements and protocols for both Batchelor Institute Press and the CALL Collection.



PROFESSOR NICOLAS SUZOR

*School of Law and Digital Media Research Centre,
Queensland University of Technology*

Nicolas Suzor researches the regulation of networked society. He is a Professor in the Law School at Queensland University of Technology, and one of the leaders of QUT's Digital Media Research Centre. He is also a Chief Investigator of the ARC Centre of Excellence for Automated Decision-Making and Society. His research examines the governance of the internet and social networks, the peer economy, digital copyright, and knowledge commons. He is the author of *Lawless: the secret rules that govern our digital lives* (Cambridge, 2019).

KIRSTEN THORPE

*Senior Researcher, Jumbunna Institute for
Indigenous Education & Research*



Kirsten Thorpe (Worimi, Port Stephens NSW) has led the development of protocols, policies, and services for Aboriginal and Torres Strait Islander peoples in libraries and archives in Australia. Kirsten's research interests relate to Indigenous self-determination in libraries and archives. She has been involved in numerous projects that have involved the return of historic collections to Indigenous peoples and communities, and advocates for a transformation of practice to center Indigenous priorities and voice in regard to the management of data, records, and collections. Kirsten is a member of the Jumbunna Institute for Indigenous Education and Research at the University of Technology Sydney, where she leads the Indigenous Archive and Data Stewardship Hub. The Hub focuses on research and engagement in relation to Indigenous protocols and decolonising practices in the library and archive field in Australia.

Kirsten is an advocate for the 'right of reply' to records, as well as capacity building and support for the development of local Indigenous digital keeping places. Kirsten was previously the Manager, Indigenous Services at the State Library of NSW where she led the development of strategies supporting state-wide information services for Indigenous people. This included support for Indigenous priorities and cultural competency across NSW Public Libraries, the launch of the Library's first Indigenous Collecting Strategy, and projects that supported the documentation, return and revitalisation of Indigenous Australian languages through archival sources.

Kirsten is a PhD candidate at Monash University, in the Faculty of Information Technology, where she is investigating the question of Indigenous Cultural Safety in Australian Libraries and Archives.



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