



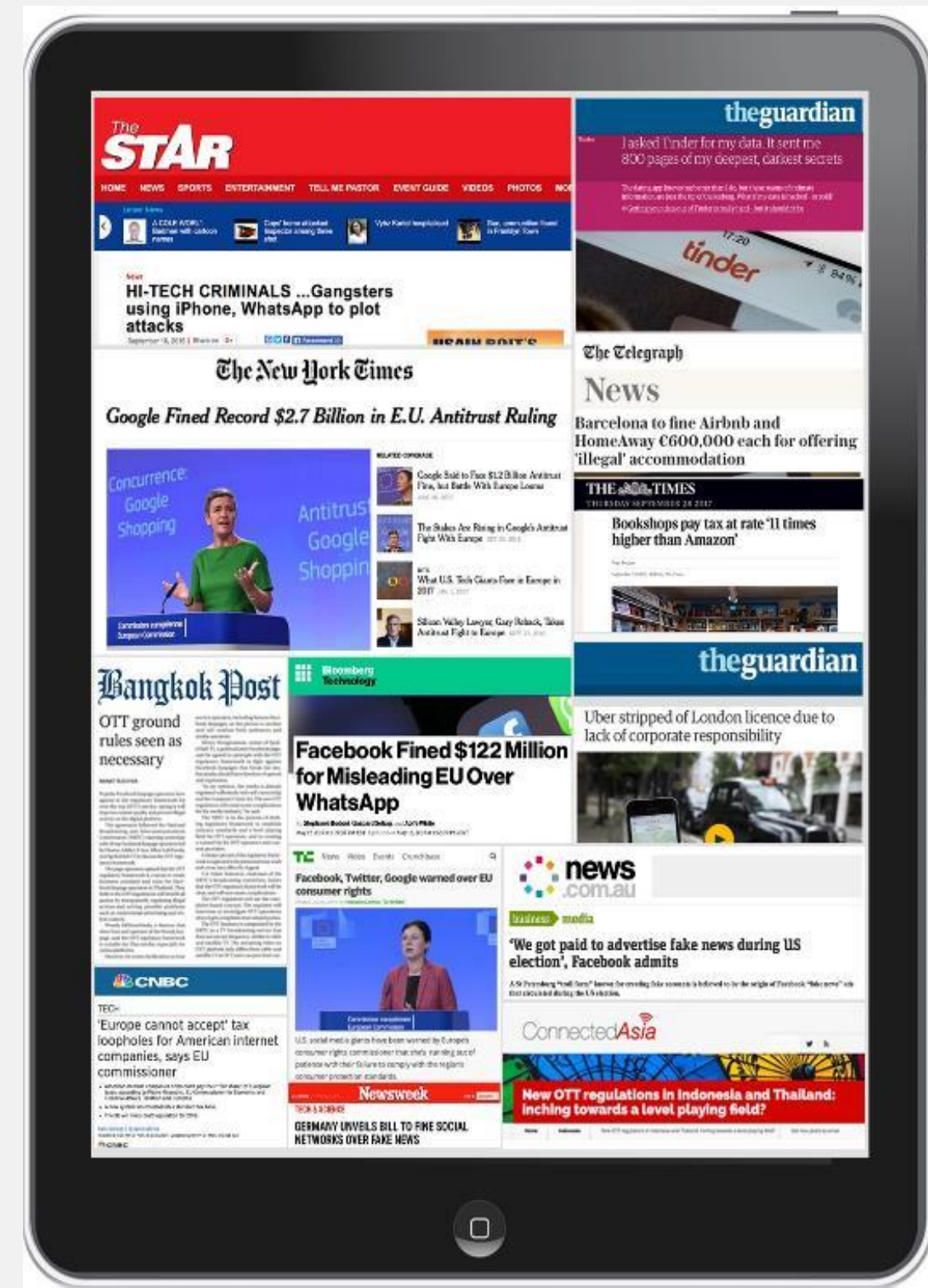
Regulation for a Single Caribbean ICT Space

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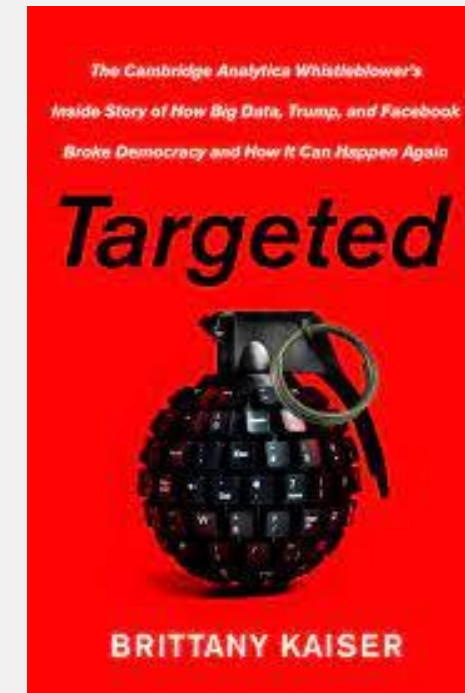
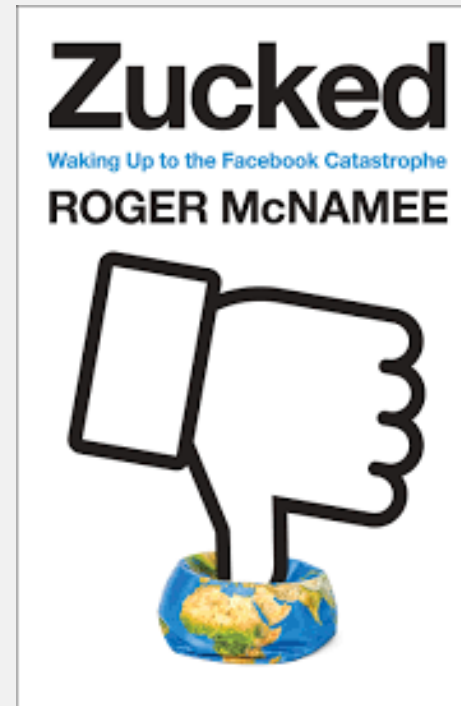
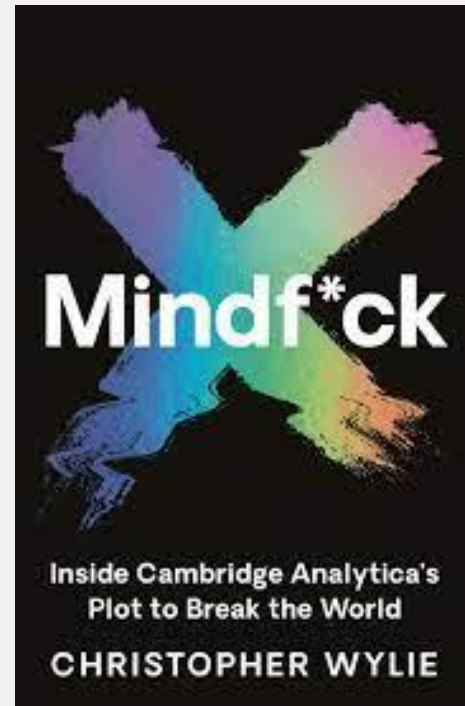
Urgent: A Toolkit for the Digital Economy

- Caribbean Single ICT Space & Harmonized Approach
- The digital economy is becoming the economy.
- The region's fragmented approach to regulation is totally inadequate for the global digital economy.
- Big Tech are the main competitors and may soon dominate every service imaginable in the region:
 - food and grocery delivery
 - medical consultations
 - media
 - communications
 - transport and tourism
- There may be no local companies left to regulate!
- **Required:** Agreed set of principles that apply in every Caribbean country.
- Local ICT laws then need to be amended to give effect to these principles in every jurisdiction.



Big Data - tactics of Big Oil & Big Tobacco

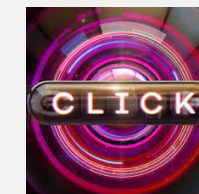
- Denial & delay regulation, despite knowing about the serious problems



Big Tech are 10 years ahead of regulators

- Cambridge Analytica – Experimented with usurping democracy in the Caribbean
- “Facebook Knows Instagram Is Toxic for Teen Girls, Company Documents Show” – Wall Street Journal
- “Facebook knew about Russian meddling well before the US election” – New York Times

BBC Click – Facebook now researching mind reading tech



Why do we need a harmonized Caribbean ICT Legal Framework?

➤ **Big Tech are competitors**

- Big Tech capture customers and monetize competing services in many unacceptable ways but face no regulation or control
- Anti-competitive conduct – no protection in Caribbean for competitors or potential targets

➤ **The Caribbean need to equip itself as other jurisdictions have**

- Australia ACCC – Facebook and Google abusing dominance in online advertising markets – forced to pay local newspapers for using content
- France – similar approach based on competition law
- Google established a \$1 billion fund to pay for media content
- South Korea – Court orders Netflix to pay for its use of networks
- Canada – Big tech contribute to broadcasting fund to support local content
- UN Broadband Commission Report on Financing Infrastructure - every company that derives a benefit from use of broadband networks should contribute

➤ **The Caribbean does not need to reinvent the wheel**

- The UK, EU, South Korea, Australia and others have already studied these matters and devised solutions
- The Caribbean can adopt key principles and amend our ICT laws to include these

5 Key Provisions

1. Amend local ICT law to require the local registration of digital platforms above a certain threshold

- South Korea introduced such an obligation in late 2020 for platforms including Google and Facebook.
- Obligation to appoint a local representative for intake of user complaints and respond to regulatory inquiries.

2. Provisions of ICT law mandatory for such digital platforms

- Cooperation with legal authorities.
- File accounts with regulator and details of traffic usage annually or as required (e.g. South Korea).

3. Tackle false/defamatory information by making it easier to request the identity of anonymous/disguised posters.

- Very difficult at present as courts apply injunction criteria when asked to issue mandatory orders - which must then be served overseas.
- ICT law should provide for a straightforward application to the courts & duty to comply.

#4. Competition law - a key tool

1. ICT laws should reflect the prohibitions on anti-competitive behavior found in modern frameworks.
2. ICT law should stipulate that these apply to any providers of digital services regardless of their location.
3. Empower regulators to declare Digital Platforms to be dominant suppliers - from which certain regulatory obligations could follow
4. The wording of competition provisions should also permit affected persons to bring private actions before the courts.
5. Resources is a problem for regulators - Legislation should provide a role for the Caricom Competition Commission where resources can be focused.
6. Article 174 of the Treaty of Chaguaramas provides that “The Member States shall enact legislation to ensure that determinations of the Commission are enforceable in their jurisdictions”



#5. Online Harms

1. Clear requirement that illegal content must be removed within a given timeframe.
2. Requirement to remove specified harmful material.
3. Require the application of standards identified in other jurisdictions (e.g. UK)?
4. Reporting of illegal/harmful content to the regulator.
5. Annual transparency reporting – how platforms have dealt with complaints, illegal and harmful content.
6. Require appointment of a designated authorized person in jurisdiction.
7. Credible, proportionate, uniform sanctions across the Caribbean for non-compliance
8. Mandate that services to consumers are subject to local law and local courts.





Digicel

Thank You