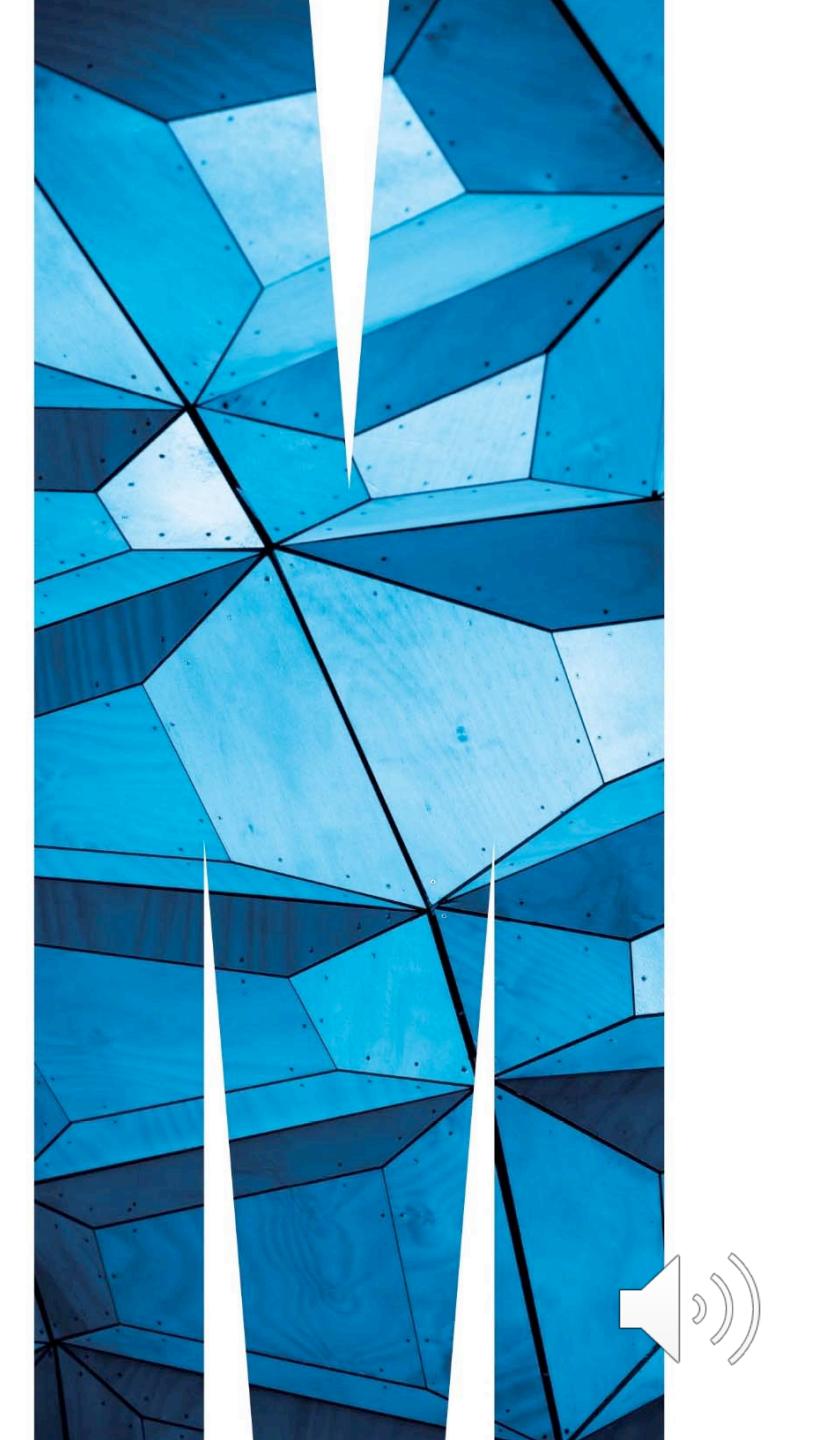


FIT1049: IT professional practice

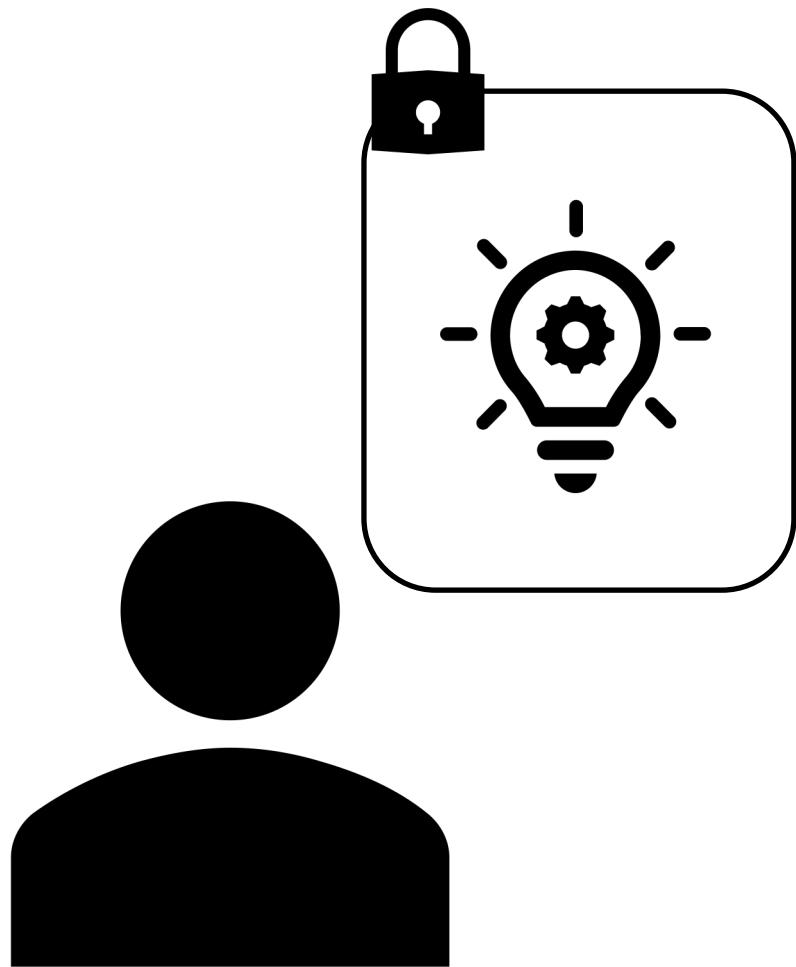
Week 10.5 Wrap-up: Intellectual property

...and other (important) spill-overs

S2, 2020



Intellectual property – refers to creations of the mind for which owners are granted various exclusive legal rights
(Raysman, Pisacreta & Adler, 2008)



The idea of intellectual property

In one of the team meetings, your colleague came up with the idea of developing a game based on *Sabacc*, a fictitious game played by Han Solo in a Star Wars film. It is only a fictitious game mentioned very briefly in the actual film, so there is no record of any rules or how it is played, so the idea is to make up rules yourselves, and turn this into a mobile game and sell it to Star Wars fans (or else) on the Apple App store. Would this be a problem?

1. Yes – even if it is fictitious, the idea of the game might be protected by a patent from the film's production company.
2. No – the game does not really exist (as yet), and it is only an idea, so it is of anyone to use freely.
3. Yes – any creation by someone else would be copyrighted by the person who came up with it.



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Copyright

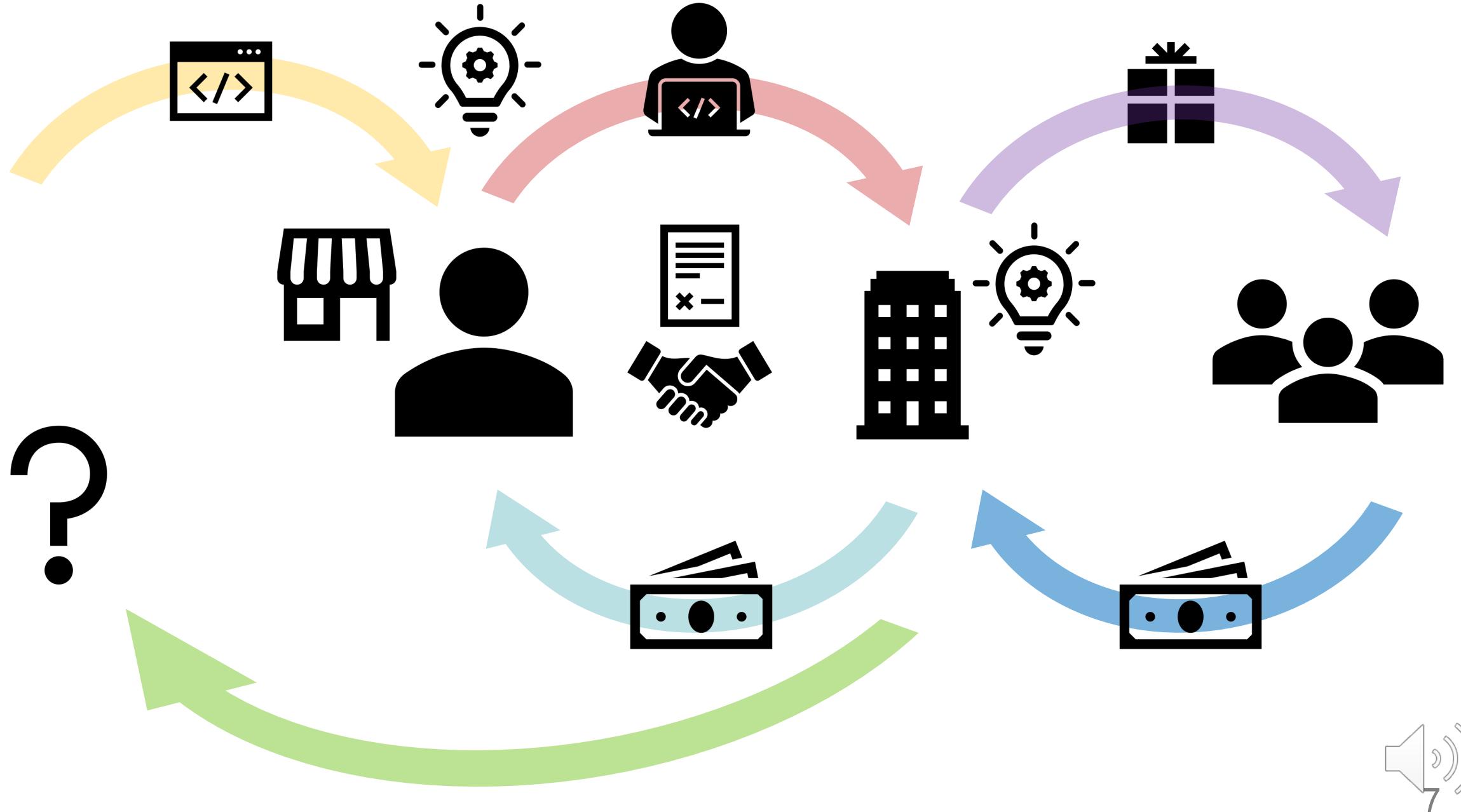
So your team has gone ahead, and developed the game which is selling pretty well. Your team is increasingly keen to exploit this opportunity, and wondered if they could suggest to the management to use GIF images with images from the film, such as *Empire Strikes Back* and *Return of the Jedi*. The idea is to promote the game by tweeting the GIF images with captions, such as “From a Cantina, far far away to your mobile device” and “Go bust? Don’t worry, we won’t take your ship!” Would you think this would cause any IP issue?

1. No. GIFs will use such a small amount of the images from the film, and those tweets use such a limited amount of words from the film it is bound to be ‘fair use’.
2. No. As long as you don’t include those images and dialogue in the game itself, this would acceptable.
3. Yes. Even using a small amount of images or dialogue from the film could be infringement.

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30 MAR 2017

Coders beware: it's a question of quality not quantity when assessing copyright infringement

BY TIMOTHY WEBB, DEAN GERAKITEYS AND ELLA ALEXANDER

Using even a small proportion of third party software without a licence could be copyright infringement for which there may be significant ramifications.



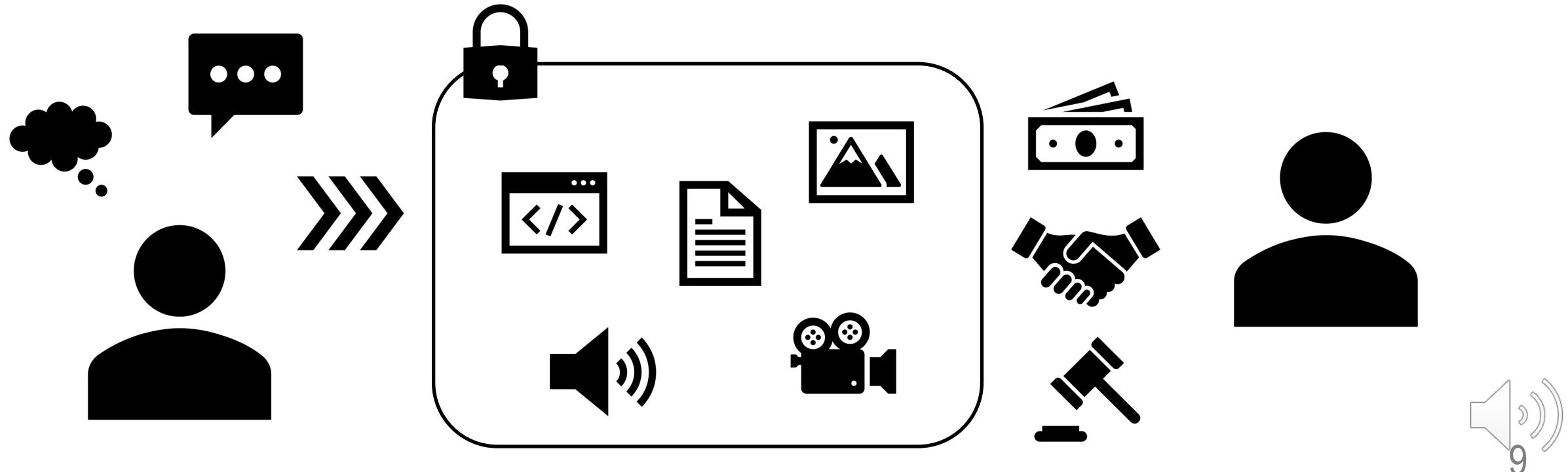
It is not uncommon for firmware or software developers to use source code from third party programs or source code libraries as part of the software being developed. Indeed, using pre-existing code that performs similar or identical functions, even if only as a small part of the software being developed, may save considerable time and resources.

However, using even a small proportion of third party software without a licence could be copyright infringement for which there may be significant ramifications, as demonstrated in the continuing IPC Global Pty Ltd v Pavetest Pty Ltd proceedings before the Federal Court.

[\(Clayton UTZ, 2017\)](#)



Copyright – protects the expression of the ideas, which must be in material form that is recorded in some way e.g. written, filmed, coded etc. Its protection is free and automatic, though conditions vary in different jurisdictions (e.g. countries) and license types (e.g. Creative Commons, Open-Source).



Trademarks (or brand) – are exclusive rights given to sell the ‘mark’, which includes not only a ‘logo’ but also “a letter, number, word, phrase, sound, smell, shape, logo, picture, movement, aspect of packaging, or a combination of these” ([IP Australia, 2019](#)).



([Google, 2020](#))

Permissions [Logos and Trademarks](#) Entertainment and Media Sponsorship and Partners Products Support and FAQ

Logos and Trademarks

First things first: you'll need our permission to use our logos or trademarks.

We receive a lot of requests from people who want to add a touch of Google to their sites. If you're working with us on a project or initiative, please work with your Google contact to coordinate third-party marketing permissions.

Although we'd like to accommodate all the requests we receive, we need to make sure our brand is used in the right way. So we turn down many requests because sites imply Google is endorsing them, or they violate our [Terms and Conditions](#).



Usage

If you've received permission to use our logo, follow these guidelines.



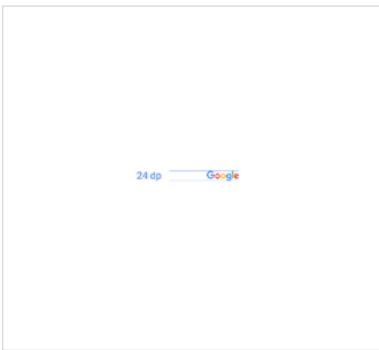
Full-color logo on white

We'll usually ask you to use the full-color version of our logo on a white background.



Clear space

The amount of clear space around our logo should be equal to or greater than the height of the "G" in Google.

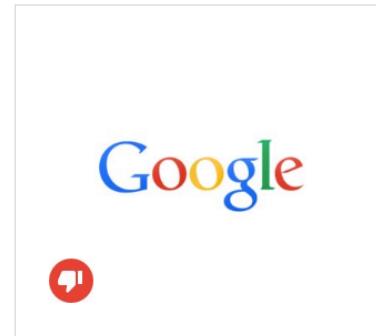


Minimum size

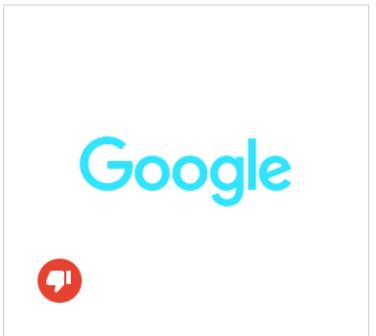
The minimum size for screen application of our logo is 24 dp in height. In print, it's 0.125 in/3.1 mm in height.

Incorrect usage

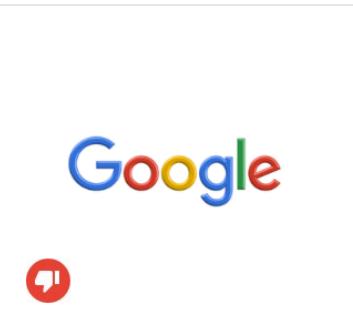
To maintain consistency of our logo, never do any of the following.



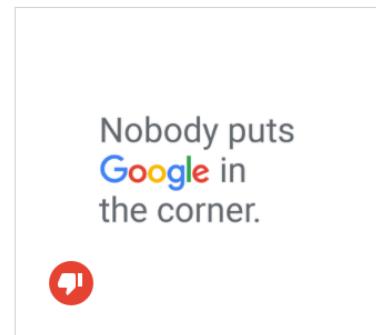
Don't use an out-of-date version of the logo.



Don't change the Google colors.

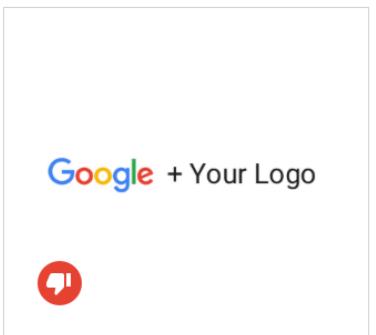


Don't modify the logo in any way, such as adding visual effects, angling, or rotating.



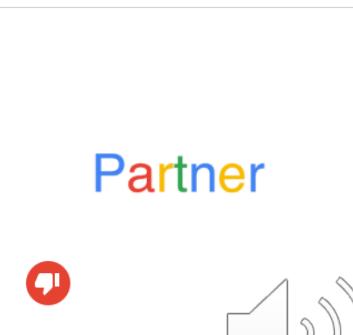
Nobody puts
Google in
the corner.

Don't use the logo in a phrase or sentence.



Google + Your Logo

Don't lock up the Google logo with your own logo.



Partner



Don't mimic any Google branding in non-Google materials.

([Google, 2020](#))



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VIPs: FREE Han Solo™ Carbonite Metal Keyring* [Shop now](#)

Home > Themes > Star Wars™

STAR
WARS

Products

About

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Builders can join forces to build the iconic All-Stars from their favourite *Star Wars™* movies.

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PRODUCT TYPE

- Sets [55]
- Home decor [6]
- Keyrings [6]

AGE

- 3–5 [2]
- 6–8 [34]
- 9–11 [52]
- 12+ [62]

PRICE

- \$0 – \$25 [10]
- \$25 – \$75 [19]
- \$75 – \$150 [16]
- \$150 – \$250 [10]
- \$250+ [7]

Showing 1 – 17 of 62 results

Sort by
Featured



Hard to find

Imperial Star Destroyer™

★★★★★

\$1099.99

Add to Bag

Add to Wish list



VIPs: FREE Han Solo™ Keyring
with *Star Wars™* purchases
over \$199

30/10 – 08/11, while stocks last.*



Hard to find

Tantive IV™

★★★★★

\$329.99

Add to Bag

Add to Wish list

(LEGO, 2020)



Patent – is “a right that is granted for any device, substance, method or process that is new, inventive and useful”, and is “a legally enforceable right to commercially exploit the invention for the life of the patent” ([IP Australia, 2019](#)).

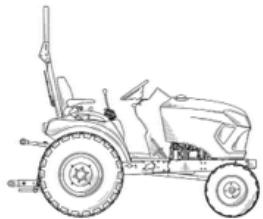
“For computer implemented inventions, **it essentially boils down to whether the ‘substance’ of the invention is a technical innovation (which is patentable) versus a business innovation (which isn’t patentable).**” ([IP Australia, 2021](#))

What design rights protect

A design right aims to protect the visual appearance of a whole product that:

- has physical and tangible form
- is manufactured or handmade
- is produced on a commercial scale

Here are some examples of designs protected with a design right:



Design right – is given to protect “the overall visual appearance of new and distinctive products” which can be “a combination of visual features including: shape, colour, configuration, pattern [and] ornamentation”. They **do not** protect designs with no physical form (e.g. computer graphics) ([IP Australia, 2020](#))

Exclusive legal rights for your IP...

Meanwhile, some of your colleagues are concerned that someone else will try and make another Sabacc game, since there are numerous rip-offs and clones online. They are thus thinking of proposing to the management to register Sabacc as a trademark to make it clear they own the game. They already searched the US trademarks register and can't find anything there, so they think this will be the best way to protect the game. Are there any problems with registering the trademark Sabacc and naming their company after the game?

1. No – Lucasfilm have not registered the trademark so it is fair to assume that whoever applies for it first would have the right to claim it as their own.
2. Yes – Lucasfilm could still have trademark protection in Sabaac.
3. Maybe – You should ask Lucasfilm first for permission.

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Checking for IP issues

You bring up all these possible issues with the colleagues, but they don't seem too concerned. They tell you that the app will be available on the Apple app store, and if there was any problem with it, Apple would reject it as they are very careful about what they allow there. Is this really true?

1. Yes – Apple have very careful processes to determine what should be on their app store, so any of these issues will be identified as part of these processes.
2. Yes – although it is not Apple's responsibility to check all games for IP or other legal issues, they will one way or another identify these issues and will let you know.
3. No – it is not true at all.

Checking for IP issues

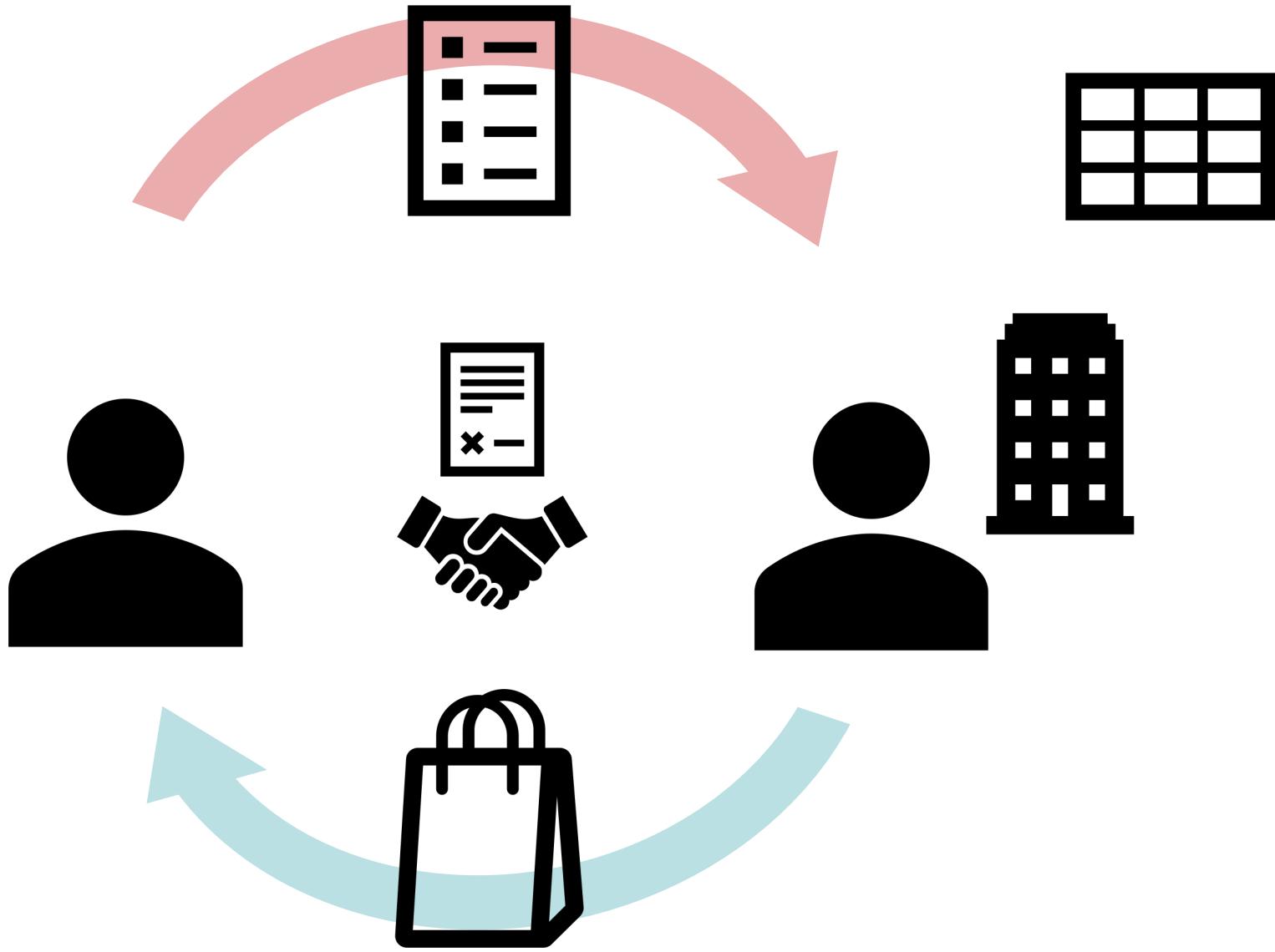
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What happened in reality?

The company using the name Sabaac lost the copyright case over using images and dialogue from the films. In a summary judgement, the court found that this was not a fair use as it was not transformative and was for a commercial purpose. They also lost their attempt to dismiss the trademark case that Lucasfilm had brought against them. Lucasfilm argued that the game was cashing in on the goodwill of the Sabacc trademark and the Star wars franchise. Lucasfilm were able to show that the Sabacc trademark, although not registered, was used in commerce prior to the date of the companies first use and that this use was continuous. The court found that there was trademark protection in Sabaac as a mark for Lucasfilm overall and the Star Wars products. (See [Lucasfilm Ltd. LLC et al. v. Ren Ventures Ltd. et al.](#))

**Please note that the scenarios used in this video has been modified for the teaching purposes, and is not an accurate reconstruction of the real case.*



Facebook told advertisers it can identify teens feeling 'insecure' and 'worthless'

Leaked documents said to describe how the social network shares psychological insights on young people with advertisers



▲ An internal report produced by Facebook executives reportedly states the company can monitor posts and photos when young people feel 'stressed', 'defeated' and 'useless'. Photograph: Paul Sakuma/AP

Facebook showed advertisers how it has the capacity to identify when teenagers feel “insecure”, “worthless” and “need a confidence boost”, according to a leaked documents based on research quietly conducted by the social network.

([Levin, 2017](#))

Christopher Wylie hearing: Cambridge Analytica whistleblower to give evidence to US Congress over Facebook data breach

Former employee of data analytics firm likely to face questions over work for Trump campaign

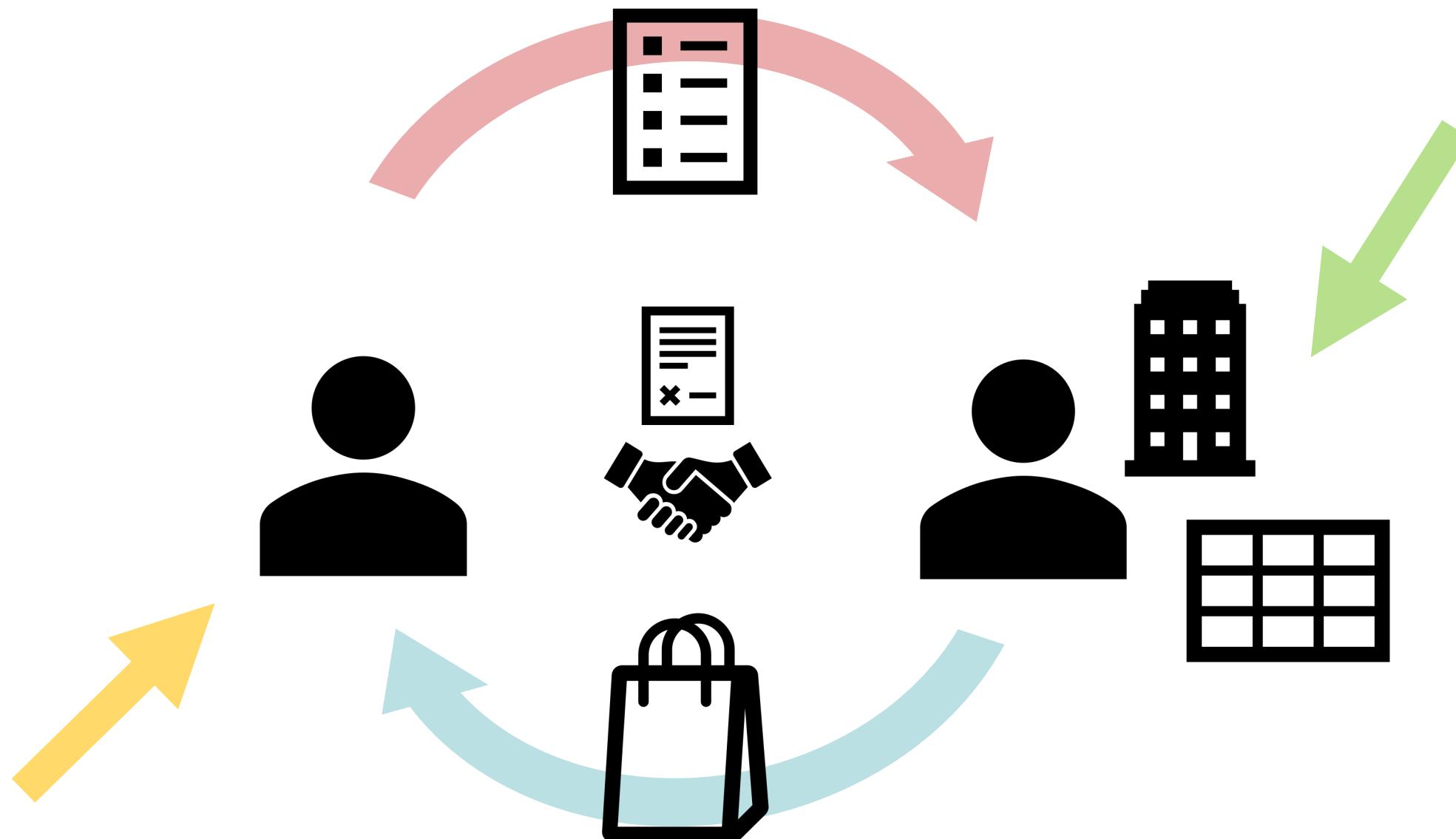
Chris Baynes | Monday 23 April 2018 14:59 | 2 comments



Cambridge Analytica whistleblower Christopher Wylie gives evidence to the House of Commons Digital, Culture, Media and Sport Committee's inquiry into fake news (PA)

([Baynes, 2018](#))





Menu

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Quick Links

[GDPR Key Changes](#)[GDPR FAQs](#)[Privacy Policy](#)[Partners](#)

**The EU General Data Protection
Regulation (GDPR) is the most
important change in data privacy
regulation in 20 years.**

The regulation will fundamentally reshape the way in which data is handled across every sector, from healthcare to banking and beyond.

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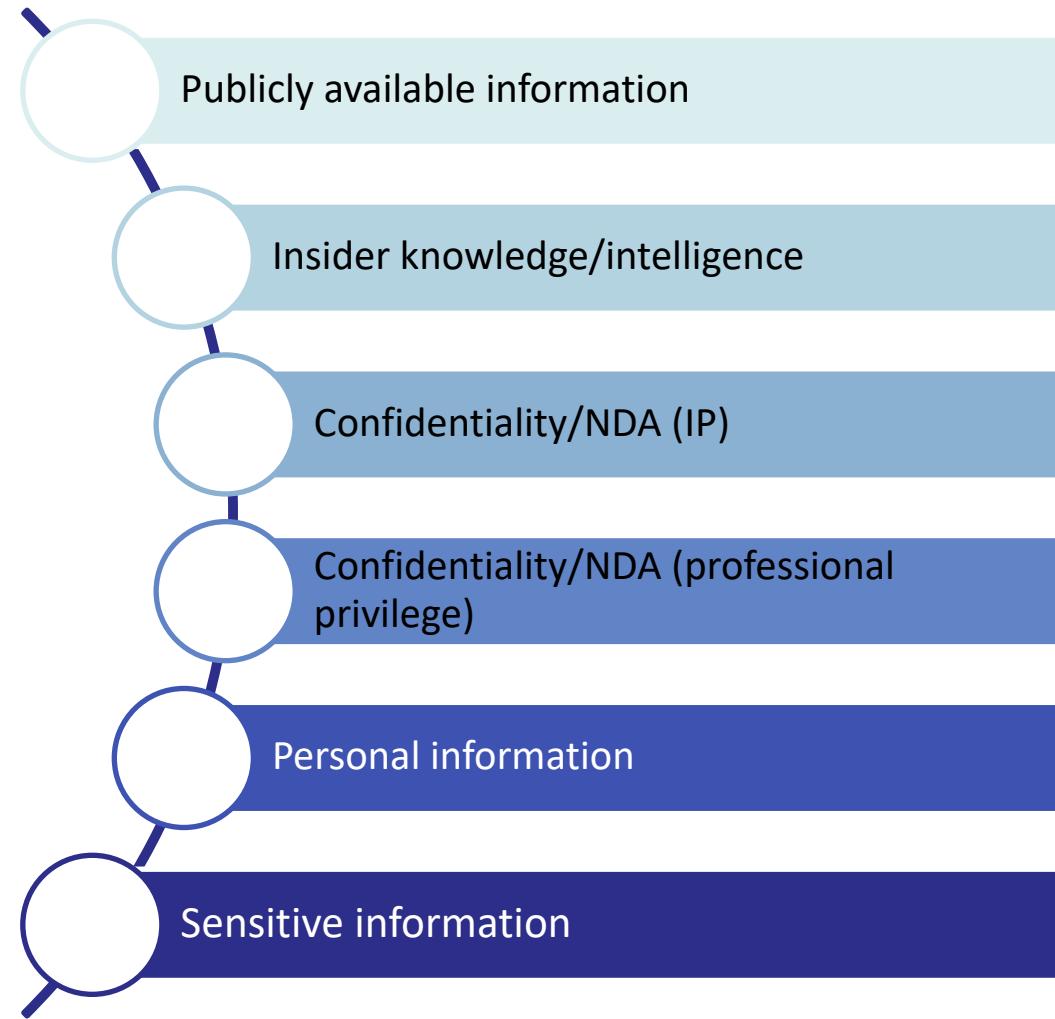
RANKINGS WIN

We've ranked in the top 100 across nine subjects in the Times Higher Education World Subject Rankings 2021.



(Monash University, 2020)

So which information are you dealing with?



So which information are you dealing with?

OAIC Australian Government Office of the Australian Information Commissioner

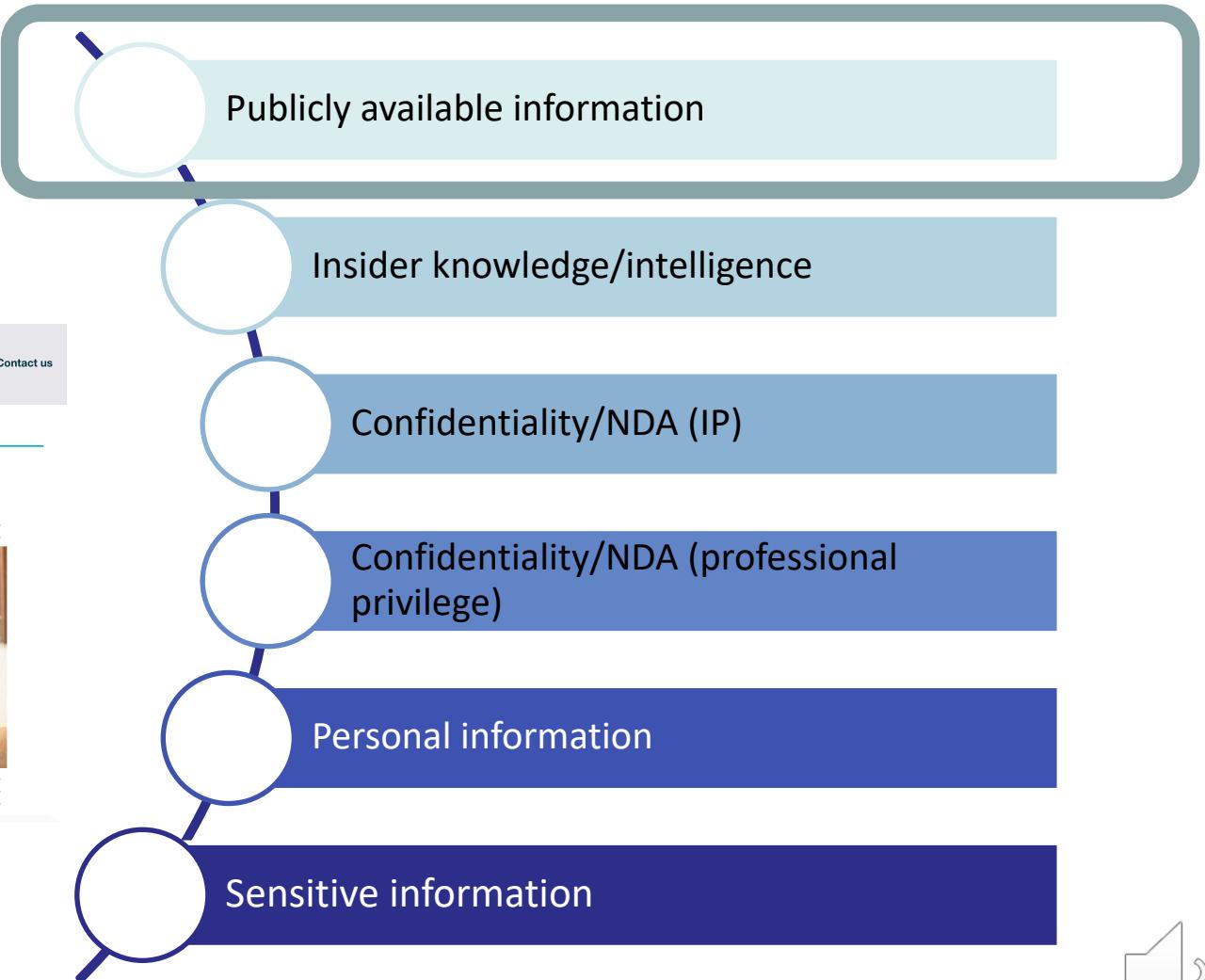
Make a privacy complaint Report a data breach Apply for an FOI review Contact us

About us Privacy Freedom of information Information policy Consumer Data Right Search...

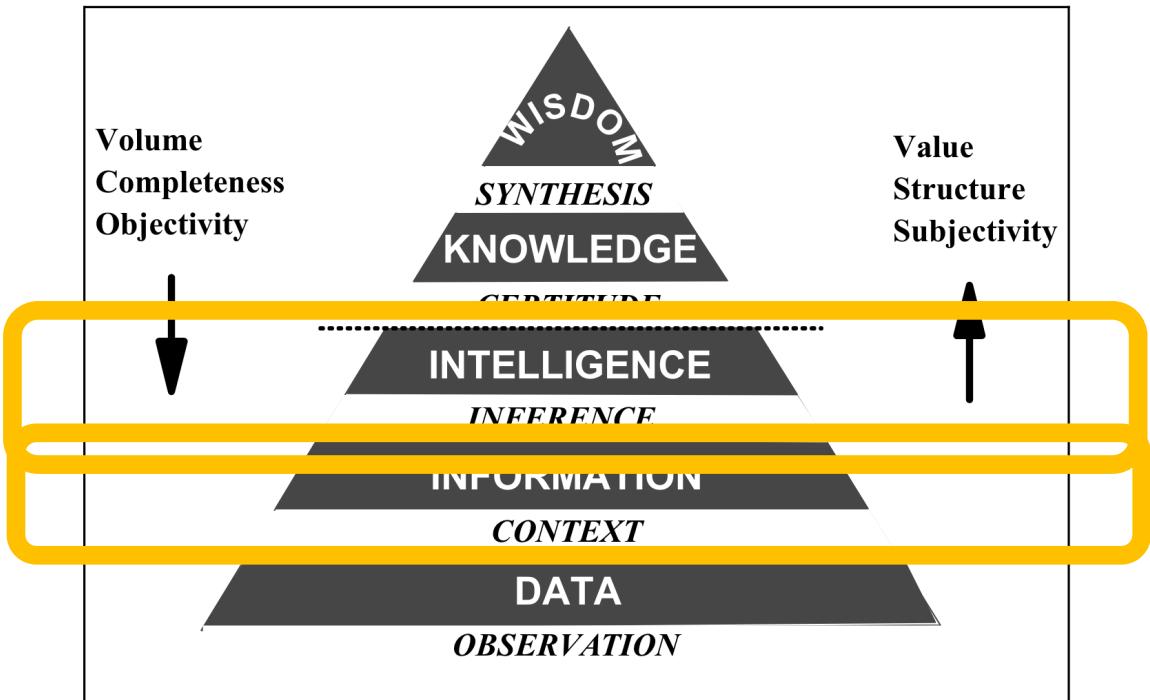
Freedom of information

RSS feed

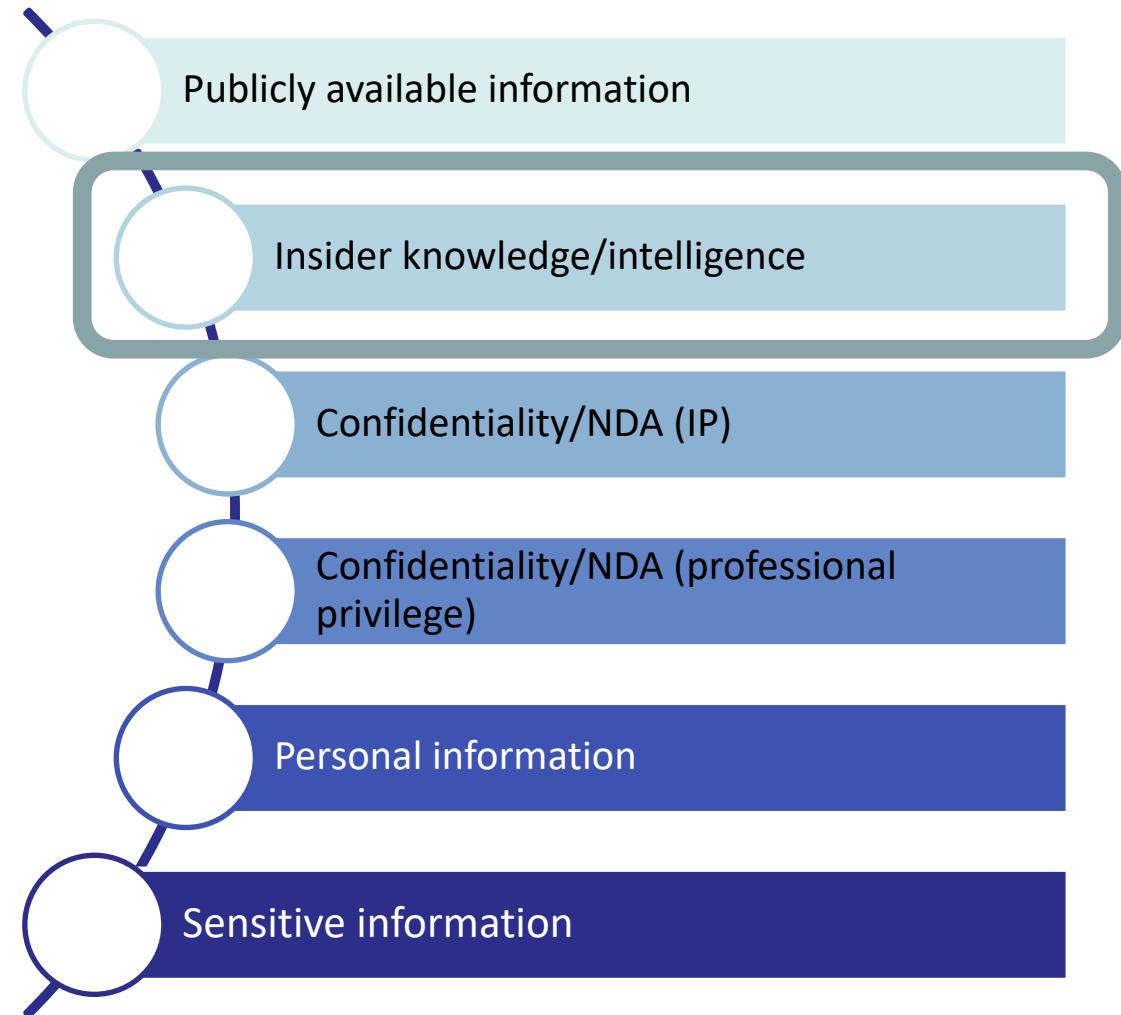
The Freedom of Information Act 1982 gives you the right to request access to government-held information. This includes information they hold about you or about government policies and decisions.



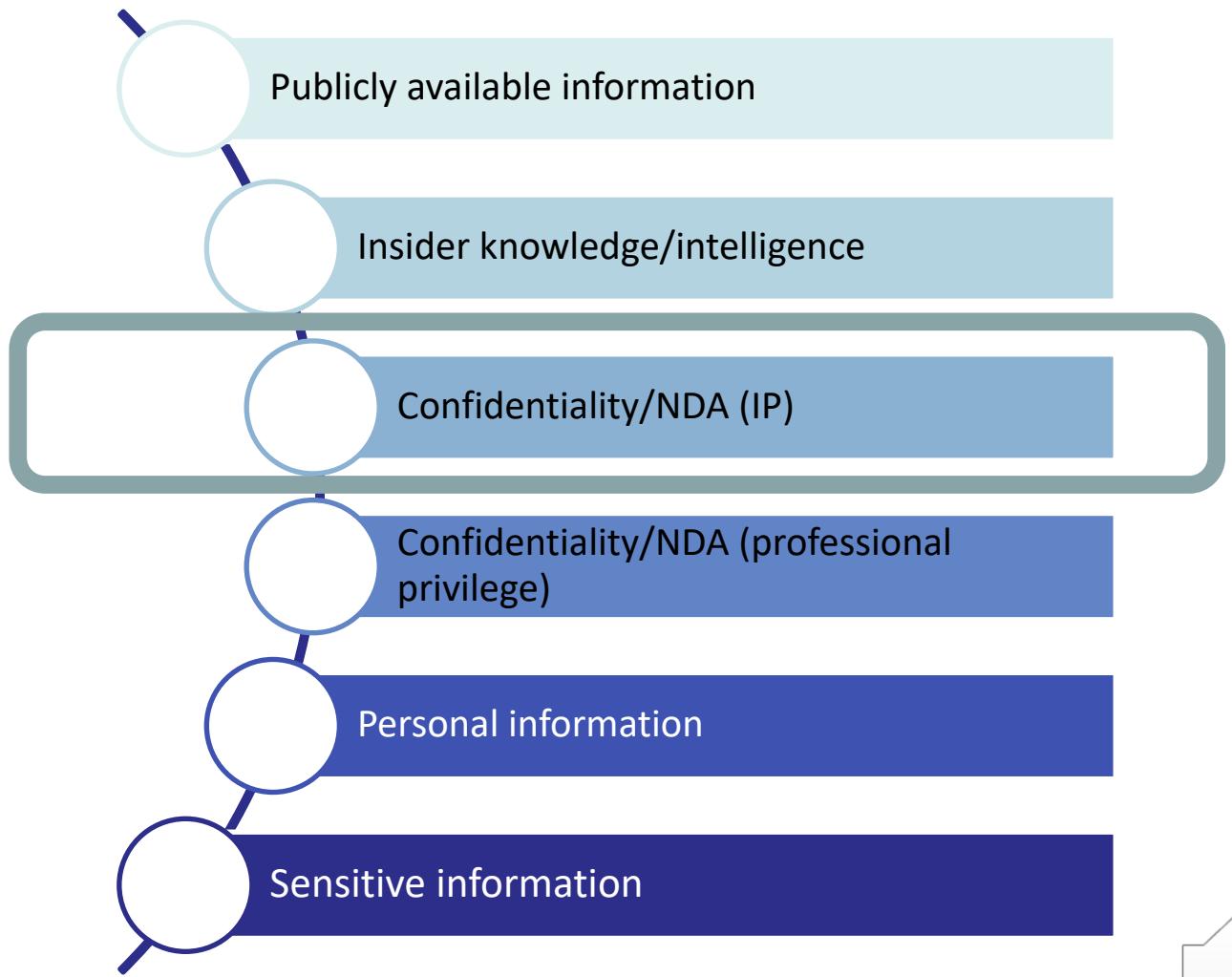
So which information are you dealing with?



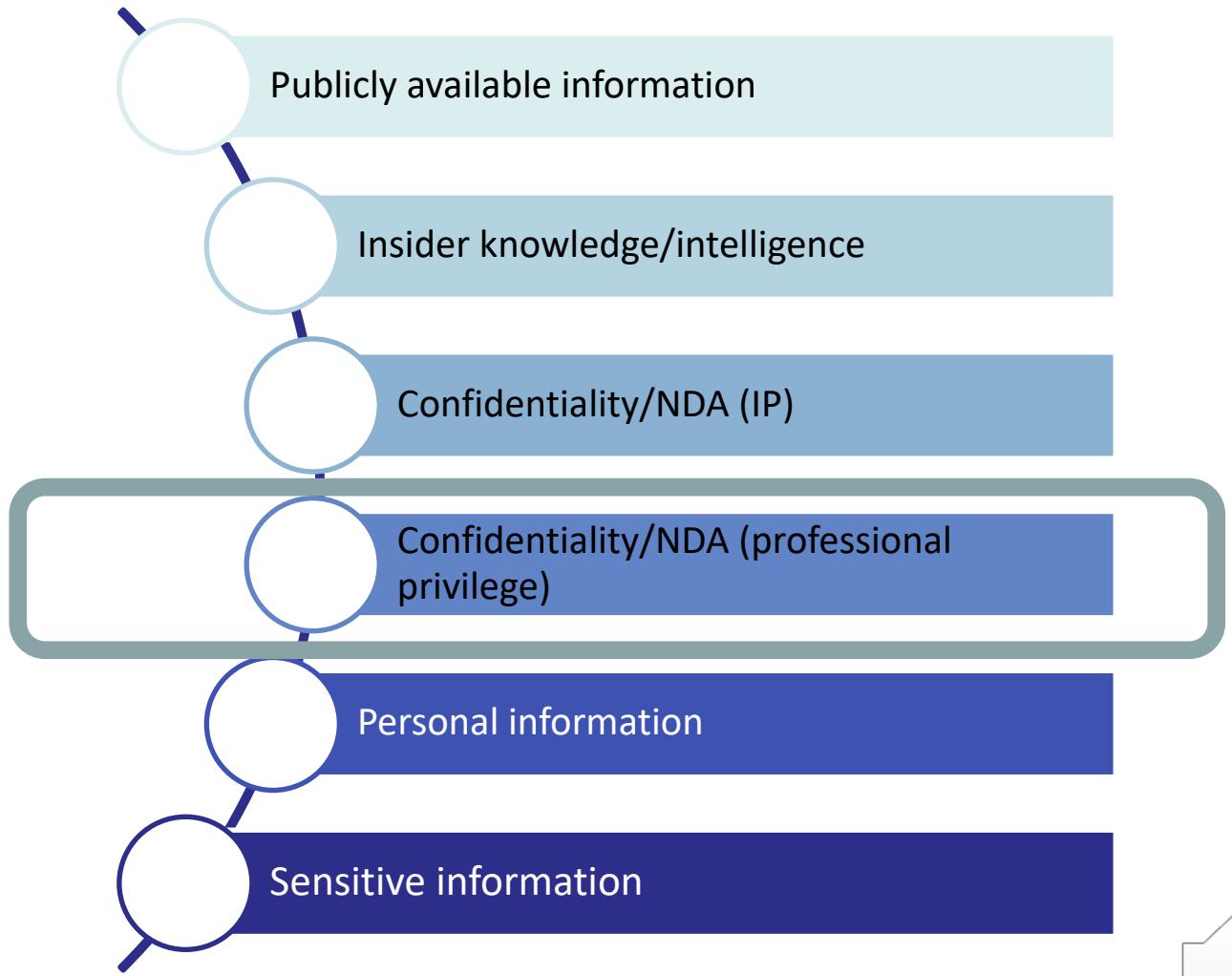
(Haeckel, 1997)



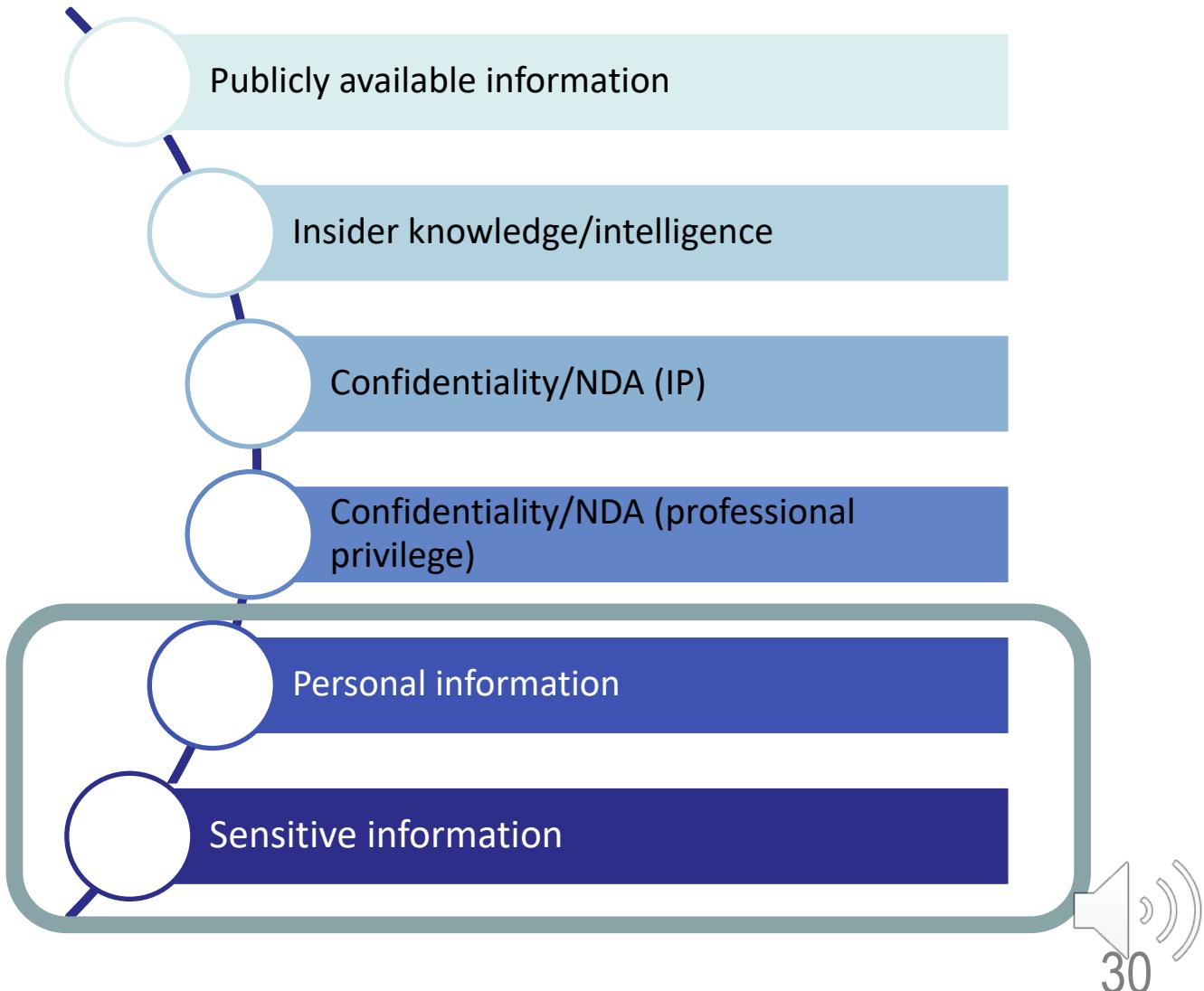
So which information are you dealing with?



So which information are you dealing with?



So which information are you dealing with?





Privacy Act

The *Privacy Act 1988* (Privacy Act) regulates how personal information is handled. The Privacy Act defines personal information as:

...information or an opinion, whether true or not, and whether recorded in a material form or not, about an identified individual, or an individual who is reasonably identifiable.

Common examples are an individual's name, signature, address, telephone number, date of birth, medical records, bank account details and commentary or opinion about a person.

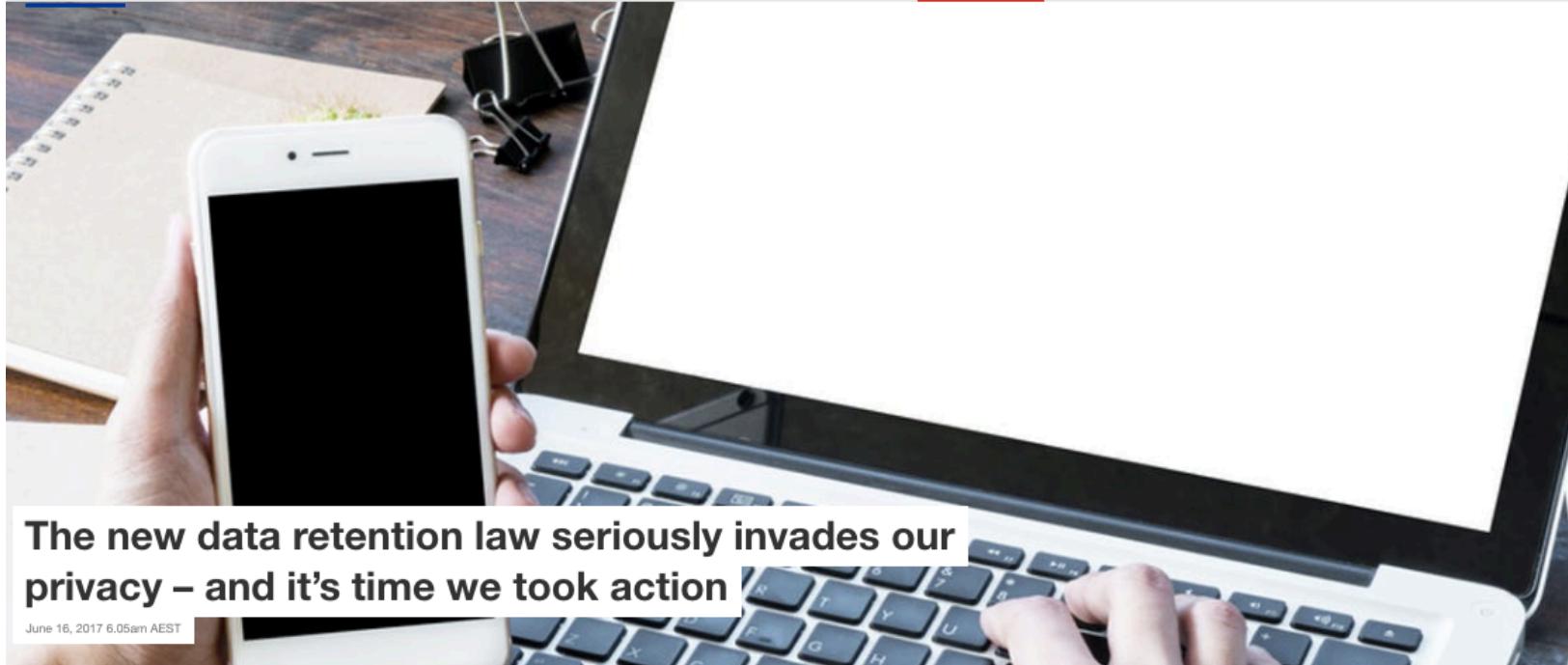
The Privacy Act includes thirteen **Australian Privacy Principles** (APPs), which apply to some private sector organisations, as well as most Australian and Norfolk Island Government agencies. These are collectively referred to as 'APP entities'. The Privacy Act also regulates the privacy component of the consumer **credit reporting system**, **tax file numbers**, and **health and medical research**.

(OAIC, 2019a)

Sensitive information

The APPs place more stringent obligations on APP entities when they handle 'sensitive information'. Sensitive information is a type of personal information and includes information about an individual's:

- health (including predictive genetic information)
- racial or ethnic origin
- political opinions
- membership of a political association, professional or trade association or trade union
- religious beliefs or affiliations
- philosophical beliefs
- sexual orientation or practices
- criminal record
- biometric information that is to be used for certain purposes
- biometric templates.



The new data retention law seriously invades our privacy – and it's time we took action

June 16, 2017 6.05am AEST

Then government's new law enabling the collection of metadata raises serious privacy concerns. [shutterstock](#)

(Gal, 2017)

“... metadata is broad in scope and can tell more about us than the actual content of our communications. Therefore, claims that the data retention law does not seriously compromise our privacy should be considered as naïve, ill-informed, or dishonest.”



Rights and responsibilities

Who has rights under the Privacy Act?

The *Privacy Act 1988* (Privacy Act) regulates the way individuals' personal information is handled.

As an individual, the Privacy Act gives you greater control over the way that your personal information is handled. The Privacy Act allows you to:

- know **why** your personal information is being collected, **how** it will be used and **who** it will be disclosed to
- have the option of **not identifying yourself**, or of using a **pseudonym** in certain circumstances
- ask for **access** to your personal information (including your health information)
- stop receiving unwanted **direct marketing**
- ask for your personal information that is incorrect to be **corrected**
- **make a complaint** about an entity covered by the Privacy Act, if you consider that they have mishandled your personal information.

([OAIC, 2019c](#))

Privacy and confidentiality 1

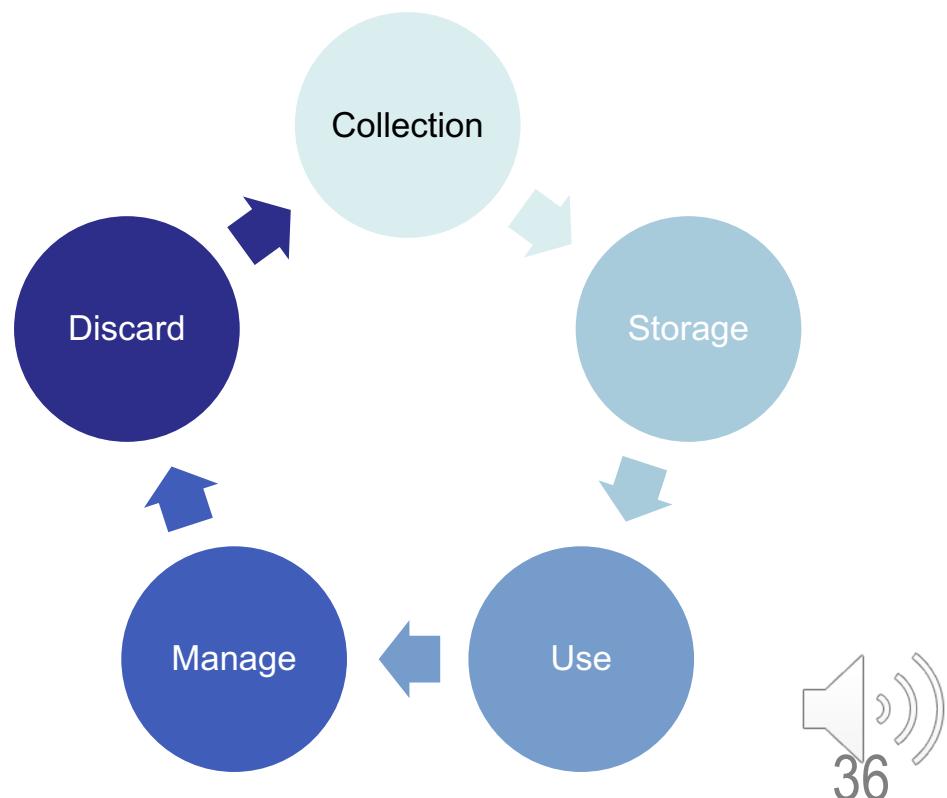
It's Monday, and your colleague, Simon, has sent you an email this morning to say that he is taking today off because he has been unwell since weekend. He might return tomorrow, but it depends on how he'd feel then. Meanwhile, one of Simon's clients contacted you after trying his work phone several times, and told you that they want to discuss with Simon something rather urgently. You know that Simon has been working with this client for some years, and that they know each other professionally quite well. What would be your response?

Privacy and confidentiality 2

Your company has a manager whose name is exactly the same as yours. As a result, every now and then you receive emails that were directed to this manager. One morning you received another one of those emails in your inbox. You did not realise that the email was for the manager until you read one third of it, and by that time you found some details about the sender's personal circumstances, which the sender would probably like to keep private. What would you do?

Privacy and confidentiality 3

You were reviewing the company's online registration form for events. The organiser would like to collect the registrants' email address for contact, but they also would like to collect their mobile phone number *just in case* there was a last-minutes change to the event details. Can they do that? And if so, what'd be the best practice?





Also known as the right to erasure, the GDPR gives individuals the right to ask organizations to delete their personal data. But organizations don't always have to do it. Here we explain when the right to be forgotten applies and when it doesn't.

The General Data Protection Regulation ([GDPR](#)) governs how personal data must be collected, processed, and erased. The "right to be forgotten," which received a lot of press after the [2014 judgment from the EU Court of Justice](#), set the precedent for the right of erasure provision contained in the GDPR. Of course, given competing interests and the hyper-connected nature of the Internet, the right to be forgotten is much more complicated than an individual simply requesting that an organization erase their personal data. This article takes a closer look at when people can make a right to be forgotten request, the value it adds for EU residents, and how organizations can create a right to be forgotten form to ensure GDPR compliance.

([GDPR, 2020](#))

