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What happens to your cyber life when your real life ends?

A new national study by researchers from Charles Sturt University and the University of Adelaide has found that most Australians are unprepared for death and disability when it comes to their digital assets.

Most Australians have multiple Digital Assets but may have never heard the term before.

Digital Assets include anything that can be accessed and held online in digital form. Social media, iTunes accounts, banking and other financial and medical records, domain names, online businesses, bitcoins and emails are all included.

Results of the national survey – *Estate Planning in Australia* - indicate that Australians own a diverse array of digital assets, predominately social media, email and banking records. In fact results of the survey showed that most people owned multiple digital assets, with only 18 per cent of those surveyed not owning any. Over 71 per cent of those who had digital assets indicated they were unaware of what would happen to them when they died or become disabled.

This lack of understanding presents serious potential problems for individuals and businesses, particularly given the terms of service and privacy policies of content providers and lack of unified legislation in the area.

Practically, online service providers implement different strategies in dealing with accounts belonging to a deceased users. In most cases, closing an account requires close family to provide documentation to prove that they have the right to request that the account is terminated. This does not usually allow those relatives to get access to the content of the accounts, leaving families without access to digitally stored memories of their deceased family member! In some cases online service providers automatically shut accounts down once they know an individual has died.

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Service agreements between users and online platform operators usually stipulate that the contract is between the registered user and the operator. Accordingly, online platform operators have been either unwilling or unable to allow relatives or trustees to access the personal records and other online material of the account holder in the event of death or disability. Further, as digital assets are held in cyberspace they are truly global, thus raising interjurisdictional issues, particularly given that online platforms are almost wholly domiciled outside Australia. This means, legal disputes involving companies such as Facebook or Google have to be litigated where the providers' headquarters are located, for example California in the case of Microsoft. Further, in terms of online content individuals don't own the music, books and movies they "buy" from companies such as Apple and Amazon so the digital assets can't be passed on when they die.

Professor of Finance from Charles Sturt University, Adam Steen who led the research project said, "Aside from the obvious personal issues involved, the results should be a wakeup call for business owners. If service agreements are with individuals then death and disability could result in significant business disruption and loss. Appropriate action and planning is needed to ensure businesses rather than individuals have licencing and other agreements with service providers to ensure business continuity and minimize disruption in the event of death or disability of key people".

Legislative reforms are currently underway in various countries that are intended to resolve some of the uncertainty. Legislation which allows fiduciaries (executors of deceased estates) to manage a decedent's digital assets has been enacted in most US states but not in Australia.

About the Survey

Estate Planning in Australia (2017) details the findings of a survey into the estate planning practices of a representative random sample of over 1,000 adult Australians. The results may assist Australians to better understand and appreciate the issues involved in undertaking effective estate planning. The study was funded by The Society of Trustees and Estate Practitioners (STEP). The research was led by Professor Adam Steen from CSU with CSU researchers, Professor Steve D'Alessandro, Dr Dianne McGrath and Dr Nicholas Davis and the University of Adelaide researchers Dr Chris Graves, Dr Francesco Barbera and Dr Henry Shi.

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Further Information and Interviews:

Copies of the report – *Estate Planning in Australia* – are available on request.

Professor Adam Steen, Professor in Finance, School of Accounting and Finance, Charles Sturt University is available for interview.

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