

Editorial: BILETA 2016 conference special issue

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The 31st Annual British and Irish Law, Education and Technology Association ([BILETA](#)) conference was hosted by the University of Hertfordshire, UK and organised by a committee chaired by the guest editor. The conference was an internationally-flavoured event in the fields of IT law and policy, technology and legal education.

The conference theme 'Future, law, education and technology: WoW, have we forgotten something?' alluded to both developments relating to the right to be forgotten as well as the University's successful co-curricular programme 'War of Words - WoW'. Conference delegates were invited to participate in a WoW session on topics related to BILETA's research areas. Other special events at BILETA 2016 included a panel on surveillance, a Google-supported workshop on the right to be forgotten, a Google PhD workshop, and an open forum on the Research Excellence Framework and IT law. Some of the questions that were considered during the conference included IP and copyright infringement, bitcoin, botnets, cybercrime, legal language and education, information retrieval and brokerage, surveillance, censorship, artificial intelligence, privacy by design, and much else.

In this special issue, we include seven original peer-reviewed articles in some of the areas analysed at the conference. In particular, the issue showcases research in legal education, privacy, surveillance, and copyright infringement.

In his contribution on educational challenges of the integrated legal information retrieval, Kees van Noortwijk describes 'content integration systems', which combine separate legal sources into one large document collection and incorporate new ways to improve search results. He argues that due to the advantages these systems offer, not only legal practitioners but also law students should familiarise themselves with their functionalities, in order to be ready for an era in which legal information will be offered almost exclusively in digital format. As a solution, van Noortwijk suggests incorporating more advanced 'legal information skills' in the legal curriculum, as these skills are required to ensure that all newly educated lawyers will be able to use digital legal information optimally, now and in the future.

In another insightful contribution in the area of legal education, Nicholas Gervassis and Panagia Voyatzis offer some preliminary results on the technological platform known as the 'Virtual Court', an educational tool used to improve students' legal reasoning skills. The contribution presents some possible future technological developments to improve not only its pedagogical outcomes but also the user experience. In particular, the authors propose developing the Virtual Court, technology-enhanced learning (TEL) environment, into a cross-platform software application that could be utilised within any programme and course for teaching law.

Further four articles in this issue discuss privacy and data protection, tackling topics such as privacy regulation and standards, online advertising, the right data portability, and surveillance. Irene Kamara's article discusses the complex but emerging and very current

issue of EU standardisation in the field of personal data protection as self- and co-regulation. The article examines the boundaries of concepts of self-regulation, co-regulation, de-regulation, along with legal effects, benefits and drawbacks. It then focuses on a standardisation request of the European Commission directed to European Standardisation Organisations for the development of technical standards implementing privacy by design. Kamara analyses the background, need and content of the standardisation request in light of emerging technologies and technologically neutral nature of the EU data protection legislation. The author offers valuable insights on added value and the limitations of mandated standardisation as an instrument to support EU data protection legislation.

Aysem Diker Vanberg and Mehmet Bilal Ünver's article finds that the right to data portability under Article 20 of the EU General Data Protection Regulation 2016 (GDPR) might not deliver the intended results due to its ambiguity, and due to limitations contained therein, such as the rights and freedoms of other data subjects. The article contends that, in its current form, the right to data portability may create disproportionate costs for small and medium-sized enterprises, compromise valuable proprietary information and intellectual property rights and lead to privacy and security breaches. In order to alleviate these concerns, the authors suggest that the Article 29 Working Party should provide comprehensive guidelines explaining how to interpret key terms in Article 20 of the GDPR. Furthermore, the article argues that the forthcoming guidelines should concentrate on how to strengthen and encourage controller-to-controller data portability. The authors conclude by suggesting that EU competition rules, especially Article 102 TFEU, and the essential facilities doctrine, can complement data portability by facilitating mandatory access to specific data.

In their article on online advertising, Clifford and Verdoodt evaluate the move to what they term 'integrative advertising' or methods which rely on the mixing of commercial and non-commercial content in light of the EU legislative framework. The authors question the capacity of the framework to cater for these developments and find that for true advertising literacy mere identification of commercial communications is insufficient. They therefore conclude that efforts need to be made in order to educate consumers (especially children) to allow for the continuing relevance and reliance on the notion of the average consumer.

Valerie Aston examines the ways in which state surveillance of protest undermines privacy barriers and social norms. The author argues that UK courts have been overly dismissive of the potential for harm from non-covert visible forms of protest surveillance. Drawing from interviews conducted with protesters, Aston suggests that protesters are expected to tolerate significant intrusions into privacy and disruption to autonomy, in ways that may damage not only individual well-being but their collective ability to develop effective social movements.

The final paper addresses the contentious issue of hyperlinking and copyright infringement. Evangelia Papadaki's paper examines whether the provision of hyperlinks may constitute communication to the public by violating the author's exclusive 'making available' right. The author conducts a comparative study of European case law, in particular, by discussing principles expressed in national case law, as well as in landmark CJEU cases, such as *Svensson* and *GS Media*. The article demonstrates that a majority of European national courts conclude that hyperlinking is not an act of communication to the public. The acts of infringement by means of hyperlinking have generally been captured under provisions and doctrines on indirect liability, such as contributory infringement or authorisation. The author finds that the CJEU expanded the notion of direct liability in *GS Media* and introduced a new subjective element of indirect liability, i.e. knowledge, which according to the author has no room in the analysis of direct liability. Papadaki concludes by asserting that national laws on

indirect liability, coupled with the provision against circumvention of technological measures, are sufficient to determine liability in cases where copyright infringement takes place via hyperlinking.

BILETA continues to support and showcase cutting-edge, engaging and impactful research into IT law, technology and legal education across Europe, and on an international stage. The guest editor would like to thank the general editors of the journal for their support and input during the editing process.

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