

BOOK REVIEW**CYBER LAW IN IRELAND**

Maeve McDonagh and Micheál O'Dowd

Alphen aan den Rijn: Wolters Kluwer, 2015. 412pp. ISBN 978-90-411-6005-8. €120.

Textbooks on information and communications technology law (ICT law) are especially challenging for authors. This sprawling field demands knowledge of multiple areas of domestic law, understanding of numerous cross-border issues and the wider international framework, as well as a grasp of the underlying technologies. On top of that, the pace of change makes it certain that the work will at least partly become out of date by the time it is published. In the Irish context, there is the further point that a small jurisdiction will at most generate a small number of sales. Given these deterrents, McDonagh and O'Dowd deserve kudos for taking on the task of producing a comprehensive work on ICT law in Ireland.

The book is derived from the Irish contribution to the cyber law section of the Wolters Kluwer *International Encyclopaedia of Laws*, but is a substantial piece of work in its own right at 421 pages. While there are now a number of Irish works on different aspects of ICT law – such as data protection¹, social networking² and child pornography³ – this is only the second book to attempt a full survey of ICT law in Ireland. The first, Kelleher and Murray's *Information Technology Law in Ireland*,⁴ was last updated in 2007, leaving practitioners and students with no current reference text. This book partially succeeds in filling that gap.

The scope is far-reaching: the authors describe it as aiming to cover every aspect of the law affecting information and communications technology in Ireland and the text lives up to this, covering not just the standard topics for such texts but also a number of more niche areas such as cloud computing agreements, government contracting, and the procedural law governing cybercrime investigations.

Following an introduction to the Irish legal system, the work is divided into seven parts. Part I outlines the regulatory framework for the ICT sector, and describes the Irish rules regarding telecommunications, competition law, cryptography, standardisation and out of court dispute resolution. While wide-ranging, this Part is also relatively basic in its coverage – setting out the general landscape and providing pointers to the legislation, case law and commentary with more detailed discussion of particular points

Part II moves on to intellectual property in the ICT context and covers copyright and related rights (such as the *sui generis* database right) along with domain name regulation and

¹ D Kelleher, *Privacy and Data Protection Law in Ireland*, 2nd ed (Haywards Heath: Bloomsbury Professional, 2015).

² P Lambert (ed), *Social Networking: Law, Rights and Policy* (Dublin: Clarus Press, 2014).

³ I O'Donnell and C Milner, *Child Pornography: Crime, Computers and Society* (Cullompton: Willan, 2007).

⁴ D Kelleher and K Murray, *Information Technology Law in Ireland*, 2nd ed (Dublin: Bloomsbury, 2007).

disputes. This Part is considerably more detailed – while it is not a substitute for a specific intellectual property text it nevertheless provides a good overview of issues such as the extensive Irish litigation on file-sharing and internet blocking.

Part III addresses ICT contracts with chapters covering topics such as hardware and software contracts, cloud computing agreements and government contracting. This section is very much practitioner focused and for the most part provides a basic introduction to the types of issues which must be addressed in each category of contracts.

In Part IV the focus turns to electronic transactions, with chapters outlining Irish law on the legal status of electronic transactions themselves, electronic signatures, electronic banking and consumer protection. In each case the chapters consist predominantly of summaries of the relevant legislation – as is probably inevitable given the almost complete absence of Irish case law in these areas.

Part V takes on non-contractual liability and for the most part addresses intermediary liability in the context of defamation and copyright infringement. This is an area where there has been considerably more Irish litigation and the text reflects this with a concise but very useful analysis of the domestic case law, including discussion of the rules relating to jurisdiction. The section is also valuable for its look at the English jurisprudence, which is likely to prove influential before the Irish courts.

Part VI on privacy protection is the single largest section, and at just over 100 pages takes up one quarter of the text. It provides an excellent overview of Irish privacy laws in general – giving a detailed summary of the constitutional right to privacy before going on to discuss the law in relation to data protection, telecommunications privacy and direct marketing. This would be of great value to anyone looking for an introduction to the Irish position on privacy, particularly given that it takes care to point out the ways in which Ireland is out of step with the requirements of the Data Protection Directive.

Finally, Part VII provides a relatively short but nevertheless informative overview of the position in relation to cybercrime which covers the substantive offences and the main procedural rules around their enforcement (such as the availability of search warrants and the power to require decryption of data).

Overall, *Cyber Law in Ireland* will be of most value to practitioners and students looking for a reliable and up to date introduction and quick reference guide to Irish ICT law. It does not purport to be a replacement for Kelleher and Murray's now rather dated book. At less than half the page count, it cannot attempt to give an authoritative analysis of the law across the range of topics it covers. But, given that limitation, it is nevertheless a comprehensive, well-presented and well-informed statement of the law and can be recommended to anyone working in the area.

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