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Editorial Introduction

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Welcome to the first issue of the twentieth volume of *SCRIPTed*, the University of Edinburgh's Journal of Law, Technology and Society. Disruptive technologies are changing the way we live and perceive the world day by day. AI, metaverse, and privacy are the buzzwords we often hear in the early days of 2023, and technology-related concepts are sweeping the headlines. Undoubtedly, digital transformation is also bringing legal questions together, begging to be answered. In an effort to shed some light on the uncertainties of the future, the *Scripted* continues to be a platform for international scholars working on the legal problems of the brave new world. As ever, this issue is a product of the hard work and collaboration of a thriving international community. We would like to thank, in particular, our contributing authors and peer reviewers, without whom there would be no work to publish and who have ensured the work in this issue is of high quality. This issue also marks a change in how we handle the submissions, peer reviewing procedure and publication. As of February 2023, we will use Edinburgh Diamond, a service provided by Edinburgh University Library, to support our management system to better serve our readers and contributors. We are delighted to introduce six peer-reviewed articles and one analysis piece to our readers' consideration.

The first article of the issue, "Operationalizing Privacy by Design: an Indian illustration", is written by Ankit Kapoor. In this article, Kapoor identifies Privacy by Design as a suitable regulatory approach to address the attack on personal data in the Fourth Industrial Revolution. Further, the article illustrates the application of Privacy Engineering methodology through the Account Aggregator Framework and the Aarogya Setu Application. Kapoor positions this method as not just an operational guide but also a rigorous tool of critique.

The second article on the issue is penned by Keri Grieman and Joseph Early. In their article titled "A Risk-based Approach to AI Regulation: System Categorisation and Explainable AI Practices", Grieman and Early provide a

detailed analysis of why the regulation of AI is difficult, paying particular attention to understanding the reasoning behind automated decisions. Further, Grieman and Early propose a flexible, risk-based categorisation for AI based on system inputs and outputs and incorporate explainable AI into a novel categorisation to provide the beginnings of a functional and scalable AI regulatory framework.

Sharon Galantino's article examines the self-regulatory framework established by the EU Code of Practice on Disinformation and considers how the EU Digital Services Act (DSA) will affect that framework by arguing that the DSA fails to protect European standards of freedom of expression in the regulation of disinformation, reflecting uncertainty of how public bodies should regulate the private gatekeepers of information and underscores the question of the effect of informal state pressure on the horizontal application of fundamental rights gains a sense of urgency.

Matthew Rimmer considers recent litigation in the Australian courts, an inquiry by the Productivity Commission, and patent law reform regarding the right to repair in Australia. Rimmer's article provides an evaluation of the decision of the Full Court of the Federal Court in *Calidad Pty Ltd v Seiko Epson Corporation* [2019] FCAFC 115 – as well as the High Court's consideration of the matter in *Calidad Pty Ltd v Seiko Epson Corporation* [2020] HCA 41. It highlights the divergence between the layers of the Australian legal system on the topic of patent law and recommendations for patent law reform – particularly in light of 3D printing, additive manufacturing, and digital fabrication. It calls upon the legal system to embody some of the ideals which have been embedded in the Maker's Bill of Rights and the iFixit Repair Manifesto. Overall, Rimmer stresses the need for a common approach to the right to repair across the various domains of intellectual property – rather than the current fragmentary treatment of the topic.

In the fifth article, Tegan Cohen analyses the European Commission's proposal of the AI Act, finding that the approach is not tailored to address the capabilities of manipulative AI. The concepts of subliminal techniques, group-level vulnerability, and transparency, which are core to the EC's proposed response, are inadequate to meet the threat arising from growing capabilities to render individuals susceptible to hidden influence by surfacing and exploiting vulnerabilities in individual decision-making processes. In seeking to secure the benefits of AI while meeting the heightened threat of manipulation, lawmakers must adopt new frameworks better suited to addressing new capabilities for manipulation assisted by advancements in machine learning.

Natalie Alkiviadou's paper looks at the developments of hate speech regulation online, specifically its horizontalisation, with private companies increasingly ruling on the permissibility levels of speech, placing the right to free speech at peril. It discusses how seeking to tackle all types of hate speech through enhanced pressures on intermediaries to remove content may have dire effects on freedom of expression and the right to non-discrimination. The article argues that a perfect solution is not available since, as in the real world, the Internet cannot be expected to be perfect, yet suggested that the principles and precepts of IHRL and the thresholds attached to Article 20(2) ICCPR, as further interpreted by the Rabat Plan of Action, must inform and guide any effort in enhanced platform liability.

In the short analysis, Sotiris Paphitis discusses the draft bill on a proposed Distributed Ledger Technology Law, which aims to incorporate blockchain technologies, including tokens and smart contracts, into the Cypriot legal system. Paphitis provides a critical overview of the legislative changes and analyses whether the proposed legislation achieves its goals of facilitating the proper use of such technologies whilst contributing to the prevention and suspension of money laundering and guaranteeing consumers' rights.