

E-commerce law – Course No.421122U002
Level: Master – Department of Law
Summer University 2013
Lecturer: Evelyne J. B. Sørensen

Lecture 1: Introduction to E-Commerce law

Compulsory reading:

1. OECD (2011), “*E-commerce uptake*”, in OECD Science, Technology and Industry Scoreboard 2011, OECD Publishing
http://dx.doi.org/10.1787/sti_scoreboard-2011-64-en.
2. UNESCAP Trade and Investment Division (2007), “*LEGAL IMPLICATIONS OF E-COMMERCE: BASIC ISSUES, INITIATIVES AND EXPERIENCES IN ASIA*,” Trade and Investment Division, Staff Working Paper2/07
<http://www.unescap.org/tid/publication/swp207.pdf>. (NB: Complementary reading)
3. M. Ali Nasir (2004), “*Legal issues involved in E-commerce*”, ACM IT Magazine
http://www.uop.edu.jo/download/research/members/v4i49_nasir.pdf.
4. Directorate General (2006), “*Self-Regulation in the EU Advertising Sector*”, Background Paper
<http://www.asa.co.nz/pdfs/Madelin%20Report.pdf> (ONLY Chapter 1 & 2, pp. 8-17)

Complementary reading:

- European Commission: Sources of EU law
(http://ec.europa.eu/ireland/about_the_eu/legal_information_and_eu_law/sources_eu_law/index_en.htm).
- European Parliament: Sources and Scope of EU Law
(http://www.europarl.europa.eu/ftu/pdf/en/FTU_1.2.1.pdf).

Lecture 2 & 3: Data Protection

Legislation

- Data Protection Directive (95/46/EC)
(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995L0046:en:HTML>)

Compulsory reading:

1. Peter Hustinx (2013), "EU Data Protection Law - Current State and Future Perspectives", High Level Conference (14 pages)
http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/EDPS/Publications/Speeches/2013/13-01-09_Speech_Tallinn_EN.pdf
2. van Eecke, Patrick; Craig, Cameron & Halpert, Jim. (2012).
THE FIRST INSIGHT INTO THE EUROPEAN COMMISSION'S PROPOSAL FOR A NEW EUROPEAN UNION DATA PROTECTION LAW.
In: Journal of Internet Law, Vol. 15, Iss. 8, pp. 19-22.
<http://ez.statsbiblioteket.dk:2048/login?url=http://search.proquest.com/docview/923304727?accountid=14468>
3. Moerel, Lokke. (1-5-2011).
Back to basics: when does EU data protection law apply?
In: International Data Privacy Law, Vol. 1, Iss. 2, pp. 92-110.
<http://ez.statsbiblioteket.dk:2048/login?url=http://idpl.oxfordjournals.org/content/1/2/92.abstract>
4. Zafir, Gabriela. (16-5-2012).
EU and US Data Protection Reforms. A Comparative View.
In: The International Conference "The European Integration - Realities and Perspectives", Vol. 7, Iss. 1, pp. 217-223.
<http://www.proceedings.univ-danubius.ro/index.php/eirp/article/view/1305>

Complementary reading:

- Moerel, Lokke. (1-2-2011).
The long arm of EU data protection law: Does the Data Protection Directive apply to processing of personal data of EU citizens by websites worldwide?
In: International Data Privacy Law, Vol. 1, Iss. 1, pp. 28-46.
<http://ez.statsbiblioteket.dk:2048/login?url=http://idpl.oxfordjournals.org/content/1/1/28.abstract>
- Peter Hustinx (2011), "*Towards more effective Data Protection in the Information Society*", datospersonales.org
http://www.edps.europa.eu/EDPSWEB/webdav/shared/Documents/EDPS/Publications/Speeches/2011/11-04-14_Article_Madrid_DPA_EN.pdf
- Davis, Dai. (20-12-2011).
Businesses face tougher EU data protection laws.
In: Computer Weekly, pp. 7-7.
<http://ez.statsbiblioteket.dk:2048/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=bth&AN=70124980&site=ehost-live>

Lecture 3 & 4: Advertising

Legislation

- E-Privacy Directive (2002/58/EC)
(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0058:en:HTML>)
- E-Commerce Directive (2000/31/C)
(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:178:0001:0001:EN:PDF>)
- Unfair Commercial Practices Directive (Directive 2005/29/EC)
(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:149:0022:0039:en:PDF>)
- **Compulsory reading:**

1. Bouraoui, Taoufik. (2010).
Spam between Law and Reality.
In: Review of European Studies, Vol. 2, Iss. 2, pp. 125-132.
<http://ez.statsbiblioteket.dk:2048/login?url=http://search.proquest.com/docview/817676210?accountid=14468>
2. Ashley Winton, Neal Cohen (2012), "Proposed EU framework – Online Advertising, E-Commerce and Social Media", Technology Newsflash (5 pages)
(<http://www.whitecase.com/articles-04172012/#.UbW4Tuu18nU>)
3. Goldfarb, Avi & Tucker, Catherine E. (1-1-2011).
Privacy Regulation and Online Advertising.
In: Management Science, Vol. 57, Iss. 1, pp. 57-71.
<http://ez.statsbiblioteket.dk:2048/login?url=http://mansci.journal.informs.org/content/57/1/57.abstract>

Complementary reading:

- Nicola Lugaresi (2004), "European Union vs. Spam: A Legal Response", CEAS 2004 - First Conference on Email and Anti-Spam, July 30-31, 2004, Mountain View, California, USA
(<ftp://ftp.research.microsoft.com/users/joshuago/papers-2004/145.pdf>).
- Bennet, Steven C. (2012).
Regulating online behavioral advertising.
In: John Marshall Law Review, Vol. 44, Iss. 4, pp. 899-961.
<http://ez.statsbiblioteket.dk:2048/login?url=http://heinonline.org.ez.statsbiblioteket.dk:2048/HOL/Page?handle=hein.journals/jmlr44&collection=journals&id=915>

Lecture 5 & 6: Intellectual Property/Linking

Legislation

- Copyright Directive 2001/29/EC:
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:167:0010:0019:EN:PDF>
- Database Rights Directive 96/9/EC:
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1996:077:0020:0028:EN:PDF>
- (Protection of computer programs Directive 2009/24/EC:
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:111:0016:0022:EN:PDF>)
- The TRIPS Agreement:
http://www.wto.org/english/tratop_e/trips_e/t_agm0_e.htm

Cases:

- The Newsbooster decision: <http://news.cnet.com/2100-1023-942187.html>
- The Kranten.com case: <http://www.ivir.nl/rechtspraak/kranten.com-english.html>

Compulsory reading

1. Short introduction to Intellectual Property: <http://digitalenterprise.org/ip/ip.html>

2. Katia Bodard, et al. (2004), “*Deep linking, Framing, Inlining and Extension of Copyrights: Recent Cases in Common Law Jurisdictions*”
(http://www.murdoch.edu.au/elaw/issues/v11n1/meyer111_text.html).
3. Lien Verbauwhede, “Intellectual Property and E-commerce: How to Take Care of Your Business’ Website”, SMEs Division, WIPO
(http://www.wipo.int/export/sites/www/sme/en/documents/pdf/business_website.pdf).

Complementary reading:

1. Ana Eduarda Santos (2013), “*Rebalancing Intellectual Property In The Information Society: The Human Rights Approach*”, Cornell Law School Inter-University,
(http://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1075&context=lps_clacp)
2. OVERVIEW by World Intellectual Property Organisation – WIPO: Understanding how IP relates to e-commerce (~~attached to this mail~~) (see Aula)

Lecture 6 & 7: E-Contracting

Legislation

- E-Commerce Directive (2000/31/EC):
(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:178:0001:0016:EN:PDF>)
- Distance Selling Directive (97/7/EC):
(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31997L0007:en:HTML>)
- E-Signatures Directive (1999/93/EC):
(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31999L0093:en:HTML>)

Compulsory reading:

1. Jones, Richard & Tahri, Dalal. (2011).
Online selling and contracting: An overview of EU rules.
In: Computer Law & Security Review, Vol. 27, Iss. 4, pp. 402-406.
(<http://ez.statsbiblioteket.dk:2048/login?url=http://www.sciencedirect.com/science/article/pii/S0267364911000677>)
2. Andrew Murray (2010), “*Information Technology Law: The Law and Society*”, Oxford, chapter 16 (12 pages) (~~PDF File attached to email~~) (see Aula)
3. Christine Riefa and Julia Hörnle (2009), “*The Changing Face of Electronic Consumer Contracts in the Twenty-first Century: Fit for Purpose?*”, in Lilian Edwards and Charlotte Waelde (ed.), “*Law and the Internet*”, (3rd ed.) (15 pages) (~~PDF File attached to email~~) (see Aula)

Complementary reading:

- Jones, Richard & Tahri, Dalal. (2010).
EU law requirements to provide information to website visitors.
In: Computer Law & Security Review, Vol. 26, Iss. 6, pp. 613-620.
(<http://ez.statsbiblioteket.dk:2048/login?url=http://www.sciencedirect.com/science/article/pii/S0267364910001457>)

Lecture 8: Jurisdiction

Legislation

- EC Convention on the Law Applicable to Contractual Obligations (Rome 1980):
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1980:266:0001:0010:EN:PDF>
- Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Brussels):
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:012:0001:0023:EN:PDF>

Compulsory reading:

1. E. GUSAKOVA (2004), *“Electronic Transactions: Jurisdictional Issues in the European Union”*, ELSA SPEL 2004(1) <http://www.yumpu.com/en/document/view/10921090/electronic-transactions-jurisdictional-issues-in-the-european-union>
2. Ong, Chin Eang. (2005).
Jurisdiction in B2C E-Commerce Redress in the European Community.
In: Journal of Electronic Commerce in Organizations, Vol. 3, Iss. 4, pp. 75-87.
<http://ez.statsbiblioteket.dk:2048/login?url=http://search.proquest.com/docview/236504911?accountid=14468>
3. Stoney, Mark A. & Stoney, Susan. (2003).
The problems of jurisdiction to e-commerce ΓÇô some suggested strategies.
In: Logistics Information Management, Vol. 16, Iss. 1, pp. 74-80.
<http://ez.statsbiblioteket.dk:2048/login?url=http://dx.doi.org.ez.statsbiblioteket.dk:2048/10.1108/09576050310453778>

Lecture 9: Social Media/New Media

Cases:

- Facebook Ireland Ltd. / Facebook Inc. v Independent Data Protection Authority of Schleswig-Holstein, Germany (Facebook is not subject to German data protection law)
(<http://idpl.oxfordjournals.org/content/early/2013/05/14/idpl.ipt007.full.pdf>).

Compulsory reading:

1. Cleff, Evelyne Beatrix. (2010).
Effective approaches to regulate mobile advertising: Moving towards a coordinated legal, self-regulatory and technical response.
In: Computer Law & Security Review, Vol. 26, Iss. 2, pp. 158-169.
<http://ez.statsbiblioteket.dk:2048/login?url=http://www.sciencedirect.com/science/article/pii/S0267364909001940>
2. Nye, Sandra G. (2011).
Law and ethics social media issues.
In: Journal of Employee Assistance, Vol. 41, Iss. July 3, pp. 14-16.
<http://bi.galegroup.com.ez.statsbiblioteket.dk:2048/essentials/article/GALE%7CA263658929/cac7c1a5f29a1645695e980fb27ef0ab?u=aaruniv>
3. Toby Merrill (et.al.) (2011), *“Social Media: The Business Benefits May Be Enormous, But Can the Risks -- Reputational, Legal, Operational -- Be Mitigated?”*, InfoLawGroup (13 pages)
(<http://www.acegroup.com/us-en/assets/ace-progress-report-social-media.pdf>).

Complementary reading

- Andreas Splittgerber & Christian Leuthner (2012), “Social Media Communication and SPAM – A European Perspective” (www.itechlaw.org/events/files/Splittgerber,%20Andreas_Paper.pdf).
- LOTHAR DETERMANN (2012), “*Social Media Privacy: A Dozen Myths and Facts*”, Stanford Technology Law Revue. 7 (<http://stlr.stanford.edu/pdf/determann-socialmediaprivacy.pdf>).

Useful links:

- Schönherr lawyers: <http://www.schoenherr.eu/news-publications/legal-insights/social-media-and-the-law-what-businesses-should-know>
- euobserver.com: www.euobserver.com/justice/119561