

SOCIAL MEDIA AND ELECTRONIC COMMERCE LAW

SECOND EDITION

The ever-evolving nature of electronic commerce and social media continues to challenge the capacity of the courts to respond to privacy and security violations in 'cyberlaw'. *Social Media and Electronic Commerce Law* is designed to provide students and legal practitioners with a thorough and engaging exploration of the laws, regulations and grey areas of commerce via online platforms.

This new edition has been thoroughly revised to address changes in legislation and recent court judgments, and to reflect the dynamic sphere of social media. New chapters focus on internet and e-commerce law regarding social media, P2P file sharing, cloud computing and workplace issues, with an emphasis on data security made particularly relevant by the proliferation of hacking incidents.

Written in an accessible style, *Social Media and Electronic Commerce Law* investigates the challenges facing legal practitioners and commercial parties in this dynamic field, as well as the underlying legal theory that governs it.

Alan Davidson is Senior Lecturer in the School of Law, University of Queensland. He is a solicitor and barrister of the Supreme Court of New South Wales and the High Court of Australia, as well as a delegate on the Electronic Commerce Working Group of UNCITRAL.

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ACKNOWLEDGEMENTS

We are in the midst of an ‘Electronic Renaissance’. The access to the copious amounts of information and knowledge has never been so vast and so effortless. The result globally impacts communications, social interactions, commerce, entertainment and research. The law has been catching up, rationalising traditional principles in a new landscape. Nevertheless, from the avalanche of knowledge, information and technology, an order has emerged endogenously – a *rule of cyberspace*. John Perry Barlow, speaking about cyberspace, ‘the new home of the mind’, declared:

Ours is a world that is both everywhere and nowhere, but it is not where bodies live ... In our world, whatever the human mind may create can be reproduced and distributed infinitely at no cost. The global conveyance of thought no longer requires your factories to accomplish. We will create a civilization of the Mind in Cyberspace. May it be more humane and fair than the world your governments have made before.¹

In the past two decades many of the legal challenges have been answered. The phenomena that is social media calls for an understanding of the development of laws relating to peer-to-peer file sharing, copyright and the attack on Internet Service Providers; the recent emergence of cloud computing; social media use and workplace law; defamation online; privacy law and the 2014 Australian Privacy Principles; digital personae online and online censorship. In the field of electronic commerce all Australian jurisdictions have adopted the terms of the UNCITRAL *Convention on the Use of Electronic Communications in International Contracts* (2006). Other areas include cybercrime, the regulation of spam, internet gambling, identity theft, cybersquatting, intellectual property issues and the evidence of electronic records.

My interest in this area arose some three decades ago when I undertook a degree in computing science while practising law. At the time the combination was most unusual, but the world of cyberspace and the regulation of that world have crystallised. The aim of this work is to define the law relating to social media and electronic commerce within Australia as determined by the legislature, judicial interpretations and the common law. It is intended for legal practitioners and students of what has broadly become known as cyberlaw. I have had the advantage of synthesising work in this field by being a delegate to the *Electronic Commerce Working Group* of UNCITRAL, working on new instruments.

¹ John Perry Barlow, ‘A Declaration of the Independence of Cyberspace’ published as email to barlow@eff.org on 9 February 1996.

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