

## EDITORIAL

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The University of New South Wales Law School does not offer a course on ‘The Law of the Horse’.<sup>1</sup> Such a course would probably be trivial. It does, however, schedule an elective called ‘Cyberspace Law 2.0’.<sup>2</sup> To Judge Easterbrook, these may be one and the same.<sup>3</sup>

His Honour argued in 1996 that there are two problems with the concept of cyberspace law as a unified field of study. First, it created the risk of ‘multidisciplinary dilettantism’<sup>4</sup> where lawyers and legal academics dabble in the field without sufficient technical knowledge. Second, the better way to learn the law applicable to cyberspace would be to study general rules and the principles underpinning them. On this view, one cannot learn the law of ‘tort in cyberspace’ without a thorough understanding of tort law simpliciter. Or as His Honour put more colourfully:

Lots of cases deal with sales of horses; others deal with people kicked by horses; still more deal with the licensing and racing of horses, or with the care veterinarians give to horses, or with prizes at horse shows. Any effort to collect these strands into a course on ‘The Law of the Horse’ is doomed to be shallow and to miss unifying principles. ... Only by putting the law of the horse in the context of broader rules about commercial endeavors could one really understand the *law* about horses.<sup>5</sup>

In the 21 years since this essay was published, there has been an abundance of scholarship on cyberspace and the law. This thematic component of the *Journal* seeks to explore two key themes that have arisen in this field. The first theme is a consideration of how new developments in cyberspace and technology fit within our current legal framework. This development has multidisciplinary implications for fields such as science, sociology, philosophy, economics, and

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1 This is to the dismay of at least one member of the Executive Committee.

2 *Cyberspace Law 2.0 – LAWS3532* (2017) UNSW Sydney Handbook 2017 <<http://www.handbook.unsw.edu.au/undergraduate/courses/2017/LAWS3532.html>>.

3 Frank H Easterbrook, ‘Cyberspace and the Law of the Horse’ [1996] *University of Chicago Legal Forum* 207.

4 *Ibid* 207. A dilettante is ‘a dabbler’, who lacks the knowledge of an expert: *Macquarie Dictionary* (Macquarie Dictionary Publishers, 5<sup>th</sup> ed, 2009) 471.

5 Easterbrook, above n 3, 207–8 (emphasis in original). *Contra* Clifford Pannam, *The Horse and the Law* (Lawbook, 3<sup>rd</sup> ed, 2004).

commerce.<sup>6</sup> However, the law is in a relatively unique position in terms of how it is affected by cyberspace. Many of the longstanding principles of the law, often developed through centuries of refinement through the common law, are at risk of upheaval in a short period of time. The second theme is an examination of how the law needs to change to accommodate these developments. As Judge Easterbrook pointed out, this does require an examination of broader legal principles. Of course one cannot consider how tort law should develop in cyberspace without a solid understanding of its foundational principles. But this can only go so far. Lawyers and academics must inevitably grapple with the technical aspects of cyberspace and recognise that innovation is required.

The six articles published in this thematic component thoughtfully consider these ideas. They pose and answer questions such as: when and how should injunctions be imposed to block websites that infringe copyright? How should e-money be regulated? Is our system of trial by jury under threat from the pervasiveness of social media? And are current legislative schemes sufficient to deal with domestic abuse cases which involve cyber-violence, as opposed to physical violence? As issue editor of this thematic component, I hope that these articles inspire further debate on cyberspace and the law. I would like to thank the authors for their insightful contributions to this thematic component. Each article is of exceptional quality, and this has in no small part contributed to the enjoyment of editing the *Journal*.

I would also like to acknowledge the anonymous peer reviewers for donating their time to review submissions made to the *Journal*. Their reviews and comments not only assisted us in making publication decisions, but also assisted the authors in revising their articles to be of an even higher standard.

Thanks must also go to King & Wood Mallesons for hosting the launch of this issue at their Sydney office on 22 November 2017. King & Wood Mallesons are also one of the *Journal's* premier sponsors, alongside Herbert Smith Freehills and Allens. We are extremely grateful for their ongoing support.

I would also like to thank Professor Roger Clarke for writing the foreword to this thematic issue and delivering the keynote address at the launch. It is an honour to have someone of his standing to provide an address on this field.

I am also thankful for the support provided by our faculty advisors, Professor Rosalind Dixon and Associate Professor Lyria Bennett Moses. Their advice and support of the *Journal* has been invaluable.

Of course, I am extremely grateful for the hard work undertaken by the students of the Editorial Board. Collectively, the Editorial Board has assiduously checked every footnote and carefully proofread each article. It has been a pleasure working with you all. Now that exams are over and the final issue for 2017 has been launched, I hope you all catch up on some well-deserved rest! I must especially thank everyone who I have served with on the Executive Committee. Your enthusiasm, good humour and endless support has made editing this issue an immensely enjoyable experience.

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6 See generally Hannibal Travis, 'Introduction: Cyberspace as a Product of Public-Private Censorship' in Hannibal Travis (ed), *Cyberspace Law: Censorship and Regulation of the Internet* (Routledge, 2013) 1.

On a personal note, I would like to thank God and my family and friends for their love and support. I owe you all a debt of gratitude that I can never hope to repay.