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HENRY PEARCE

Online Data Transactions, Consent, and Big Data: Technological Solutions to Technological Problems? 149

This article considers the emergence of the phenomenon of big data and how it poses difficulties for informed consent under data protection law, particularly in the context of the Web and mobile applications. It is argued that the efficacy of informed consent when used in these contexts is extremely limited, and that this, in turn, represents an encroachment on the autonomy of the individual. A variety of options for legislative reform pertaining to the protection of autonomy in the online environment are considered, as are an array of technological empowerment tools which purport to achieve the same objective. The article concludes by suggesting a cyber-libertarian approach premised on technological empowerment solutions, market forces, educational endeavours, public pressure and the adoption of standards encouraging best practices as an embryonic alternative to regulating online data exchanges through top-down paternalistic regulatory controls.

SHELLY SALUJA

The Move towards a Converged India: Communication Convergence Bill 2001 154

The article gives a bird's eye view of the converged regulatory regimes existing in various countries across the globe, thereby drawing a sharp distinction between the regulatory regimes existing in India vis-à-vis in other countries such as the UK, US, South Korea, to quote some. The article further discusses the move from a highly fragmented and regulated regime to a medium regulated regime, through the adoption of the Communication Convergence Bill 2001 in India. However, the Bill has still not seen the light of the day, but if adopted in its existing form it will definitely pave a way for making a "Digital India".

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Legitimising Bitcoins in India 162

The terms "virtual currency" and "Bitcoins" particularly have gained a lot of media attention and the interest of customers. India ranks among one of the top 30 countries to use Bitcoins and to download the software. However, many people still find it difficult to use and are unable to interpret its real advantage. They are unaware of the legal issues and losses Bitcoin trading may lead to. Although many countries have taken actions against the currency, India has not concluded anything on Bitcoin regulation. This article explains why virtual currencies need to be regulated, examining the various frauds that have occurred. The article also considers frameworks in other countries and proposes a structured trading platform for this mathematical currency. The businesses involved in trading need to be registered and required to meet strict record maintenance and audits.

STEVEN FARMER

Online Retailers Doing Business in Europe Learn a Key Tip to Avoid the Pitfall of Having to Unwittingly Litigate before Courts in Unfamiliar Jurisdictions When Things Go Wrong 173

The CJEU has passed judgment on an issue which has far-reaching ramifications for those doing business online in Europe. Following the *CarsOnTheWeb* case, E-tailers are urged to urgently check the mechanics by which terms are accepted in "click wrap" agreements, making small but important adjustments as necessary, to avoid having to unwittingly litigate before courts in unfamiliar jurisdictions when things go wrong.

Special Briefing

FARHAAN UDDIN AHMED

Right to be Forgotten: A Critique of the Post-*Costeja González* Paradigm 175

The *Google v Costeja González* ruling has changed the “right to be forgotten” landscape by bringing search engines within the ambit of the right. This critique of the post-*Costeja González* paradigm highlights the barriers to and the counterintuitive outcomes of the implementation of the right. The “Streisand effect”, in addition to definitional and data use dilemmas, plague the right’s efficient implementation and application. The potential conflict of the right with other fundamental rights such as free speech, media and privacy has led to the fear of censorship and exploitation of the right. The lack of a proper “removal request” adjudicating institution has also led to much anxiety about the request assessment procedures. This article recommends numerous legislative and administrative measures that need to be undertaken in order to ensure proper and efficient implementation of the right. There is a need for the establishment of an independent adjudicating and monitoring body for the right. The formation of proper judging criteria, including the definition of essential factors, their interpretations and the use of specific tests, are also necessary in order to ensure a fair, efficient and standardised system of implementation.

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