Editorial

by **Karin Sein**

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1 During the preparation of this issue, a legislative cycle has come to an end in the European Union. Recent legislative advances, including the Digital Services Act, the Data Act and the Artificial Intelligence Act, aim to promote a secure, competitive and innovative digital ecosystem in Europe, while seeking to ensure that technological progress is consistent with fundamental rights and ethical standards. The importance of the new rules for the digital economy cannot be overstated: companies operating in digital sectors must comply with new transparency and accountability measures, facilitate data sharing, and implement risk assessment and management processes.

2 JIPITEC tries to keep pace with these rapid legislative changes, and this issue will provide insights into several highly topical legal issues. We start with the latest legislative milestone: very recently, on 1 August 2024, the world's first comprehensive regulation of artificial intelligence - the Artificial Intelligence Act - came into force. While legal issues related to AI have been explored several times in JIPITEC, in this issue Hanjo Hamann looks at web-scraping for AI training, providing an interdisciplinary insight into human-machine communication protocols. He argues that only some of these protocols qualify as "machine-readable" under Article 4(3) of the DSM Copyright Directive, which governs the text and data mining exception.

3 The following two articles identify different shortcomings in the new Data Act that will become applicable only in a year. First, Daniel Gill argues that the Data Act fails to open up the automotive aftermarket to innovative third-party services due to a number of general and sector-specific application problems and offers policy recommendations for a sectoral data access regime. Second, Daria Kim and Man Wai Kwok focus on data usability as a legal parameter delineating the scope of data access rights and show that different concepts used for the technical state of data are too vague and lead to uncertainties regarding the scope of data-sharing obligations.

4 Next, Matteo Frigeri, Martin Kretschmer, and Péter Mezei tackle the (lack of) digital exhaustion in the context of eLending by public libraries and assess that there are few lawful avenues to obtain access to digital copies for eLending purposes. To meet the informational needs of modern societies, they propose several alternatives, ranging from judicial intervention to the introduction of the concept of book altruism.

5 The last two articles offer a critical analysis of the judgments of the Court of Justice of the European Union concerning digitalisation from the perspective of fundamental rights. Valentina Golunova and Mariolina Eliantonio ask about the role of civil society actors as enforcers of the GDPR in the proceedings before the Court and regret their limited influence. Finally, Evangelia Psychogiopoulou examines the development of the Court's case law on data retention, describing the Court's sophisticated attempts to strike a balance between citizens' fundamental rights and the protection of national security in the absence of EU legislative intervention.

6 "A rolling stone gathers no moss". JIPITEC is indeed rolling, as we have launched a new channel for interacting with our readers. On 15 May, we hosted the first joint DGRI-JIPITEC webinar on the transatlantic perspective of the Data Act, with speakers providing insights into the legal landscape of data sharing in the EU, US and Canada. The fact that we ran out of time before the flow of questions was over shows the continued interest in digital law and the need to meet again. In the meantime, enjoy reading this summer edition!

Karin Sein

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