Editorial

by **Lucie Guibault and Orla Lynskey**

1   With this issue of JIPITEC, we are delighted to announce the arrival of Orla Lynskey, Chair of Law and Technology at University College London, as a member of the editorial board. Her expertise in the law and regulation of the digital society, with a particular focus on data laws, enriches the common knowledge of the members of the board and has already proved extremely valuable in the preparation of this issue. Orla and I are proud to present you with this issue which assembles seven captivating articles on a variety of topics involving distinct technological and/or legislative developments. The papers in this issue are a true reflection of the diversity of legal issues which fall under the auspices of JIPITEC and of the dynamic legal and technical context in which the journal sits.

2   This issue of JIPITEC opens with a contribution from Donatella Casaburo in which the author investigates the phenomenon of real-time bidding for the placement of digital advertisements in publishers' inventories, following a competitive bidding process. As real-time bidding for advertisements has been described as the "biggest data breach ever recorded", the article investigates its GDPR compliance with a particular focus on the role and responsibilities of data controllers 'behind the scenes'.

3   Next, Lorena Arismendy Mengual's article focuses on user liability for wrongful behavior in the Metaverse. More particularly, she delves into the legal issues arising from avatar misconduct in online virtual worlds. She describes how harm suffered by a person may be caused by or through an avatar, but observes that compensation for such harm hinges on whether avatars are recognised as legal persons and she documents the lack of said recognition. Would granting avatars legal personhood provide a path toward redress? Could the institution of civil liability and compensation offer useful reparation in circumstances of misconduct?

4   The following article tackles the challenges associated with the co-regulatory arrangement of Articles 34 and 35 of the Digital Services Act (DSA) for the mitigation of the risks posed by harmful but legal content. Andrea Palumbo notes that the DSA moved from a model of *ex post* intermediary liability into the realm of both *ex ante* and *ex post* regulation through the introduction of new due diligence obligations for the providers of these services. His article focuses, in particular, on the due diligence obligations imposed on the providers of very large online platforms (''VLOPs'') and of very large online search engines (''VLOSEs'').

5   In their article entitled 'Towards an optimal regulatory strategy for data protection: insights from law and economics', Donatas Murauskas and Raminta Matulytė use Shavell's law and economics model to compare the *ex ante* regulatory approach to data protection in the EU with the *ex post*

liability approach of the US. While the two cross-Atlantic approaches to data protection are difficult to compare under a law and economics lens, the research provides insight into how efficiency driven considerations may better support and justify more fragmented legislation such as in the US.

6   This focus on law and economics creates a natural bridge with the subsequent article on competition law.   Maryam Pourrahim investigates who, between the various levels of suppliers or end-product manufacturers of Internet of Things (IoT) or connected cars, should be responsible for obtaining licenses for Standard Essential Patents (SEPs). She first describes the value chain involved in the production of IoT and connected cars, before analyzing the potential of patent law, FRAND commitments, and competition law to force SEP holders to license suppliers in alignment with recent case law.

7   The final two articles turn to copyright law related issues. Kacper Szkalej & Martin Senftleben study how the application of share-alike obligations under a Creative Commons License impact Generative AI, ranging from trained models, to curated datasets and AI output. The authors question whether the obligation to license under similar conditions inhibits the use of CC-licensed materials through the various steps of the AI generative process. Last, but certainly not least, Martin Stierle turns his attention to the question of whether Luxembourg should implement a regime of fair compensation for private copying and if so, under what conditions. Luxembourg is one of only three EU Member States to not have complied with the requirements of Directive 2001/29 on Copyright in the Information Society. Should this change?

8   All in all, this is a fascinating issue and we wish you a lot of reading enjoyment!

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