Index

Accessibility Act 582–3
access to information
Digital Agenda 2020 policies 24–6
public sector information
e-Government initiatives 33–4
re-use regulation proposals 7–8
website accessibility policies
570–71, 583–7
access to the internet
connection fee trends 344–5
Digital Agenda promotion 343–4
digital literacy programmes 25–6
disconnection issues 334–5
monitoring 571, 587–8
right to, generally 334–5, 345
website accessibility
Accessibility Act 582–3
access trend influences 572–3
for disabled persons 569–90
EU policies 574–9, 583–7
flexibility mechanisms 569
monitoring and enforcement 587–8
policy approaches generally 571–2
and public sector information
570–71, 583–7
technological developments 573
web content standards, EU policies
574–9
web content standards,
international policies 572–5
web content standards, US policies
573, 587–8
accountability
data protection law reform 554–5
Action Plan for Aging Well in the
Information Society 26
advertising
aggressive commercial practices
424–5
behavioural advertising 396–8, 409
cookie opt out and opt in
mechanisms 402–6
legislative developments 402–6
privacy protection by design 407–9
and search behaviour patterns
399–401
in social media services 413–14
buzz marketing 411, 424–5
clickstream data 399
conspicuous advertising 394–5
consumer profiling 383, 397–401, 561–2
data mining 397–8, 401
e-mail information disclosure
requirements 423–4
ICC Code of Practice 416, 425, 427
increasing role 383, 409–10
online advertising mechanisms
383–4
online targeting 383–4
and e-privacy 384, 399
risks 398–401
in social media services
buzz marketing 411, 424–5
disclosure of commercial intent
416–17
encouragement, characteristics of
419–30
personal endorsements 427–8
personal recommendations 427
taste and decency restrictions
425–6
user-generated marketing 424–5
viral marketing 413–14
advertising keywords
trade mark conflicts
additional functions recognition
159–64
background 143–5
blurring actions 161–4
and fair competition 164–5, 386–8, 391–5
harm to advertising function 160, 165
harm to investment function
160–61
harm to origin function and
confusion 153–67, 388–95
initial interest confusion 157–8
judicial interpretation trends 146–51, 164–7
search engine contributory liability 149–51
search engine sponsored links 143–4, 392, 394
trade mark identification 153–4
and unfair advantage 162–4, 391–5
use by junior users 151–4, 156–64
use in course of trade 146–9, 151–3, 388
use of
and competition 385–8
concept development 385–8
control challenges 386–7
disclaimers 392–3
fee models 385–6
internet intermediary liabilities 395–6
judicial interpretation 388–95
principles 385–8
sponsored links 143–4, 384, 387, 394
Air Traffic Management Solutions for the Single European Sky (SES) 34
Albrecht Report see Data Protection Regulation (proposed)
All e-Accessibility Network 574
Alternative Dispute Resolution
consumer protection legislation 14–15, 258
in e-commerce consumer contract conflicts 258, 278–81, 354–5
Ambient Assisted Living Programme (AAL) 25–6
American Recovery and Reinvestment Act 2009 43
Arrow Project 7, 24
ARTEMIS Joint Undertakings 22–3
auctions
internet intermediary neutrality challenges 396
audiovisual media services
Digital Single Market impacts 292–3, 299
as information society services 66
must-carry rules 74–5
reform proposals 299
regulatory adequacy 78–9
regulatory overlaps 71–2
regulatory structure 70
social media services 72
technology convergence
delimiting factors 67–8
regulatory conditions 67–9
regulatory issues 12
Audiovisual Media Services Directive
challenges 293, 299
on convergence 63–4, 67–9, 299
country of origin principle 292–3
freedom of expression limitations 523, 534–5
freedom of reception requirements 293
and information society services 68
‘on-demand’ audiovisual services 64, 68–9, 71–2
programmes, definition 68, 72
purpose 12, 292
services definition 67–8
and Single Market 292–3, 299
and Television without Frontiers Directive 12, 64
Australia
internet intermediary liability protections 320–22
secondary copyright infringement rules 320–21
authentication
policy review and reform proposals 11–12
see also e-signatures
Belgium
signature validity rules 443–4
Berne Convention for the Protection of Literary and Artistic Works
national treatment principle 203–5
three step test 120–21, 315–16
blocking
blocking orders 326–32
Index 593

efficiency of 330–32
and freedom of expression 531–2, 537–8
trends 331–2
copyright implications 37, 322–6, 329–30
by Deep Packet Inspection (DPI) 37
EU regulatory policy 52–3
internet intermediaries powers and liabilities 326–32
EU cases 322–6
and net neutrality 37, 42–3
specialized services exception 54–8
US regulatory policy 42–3
Body of European Regulators of Electronic Communication (BEREC)
net neutrality policy interpretation 47–9, 55–6
broadband services
penetration rates, promotion of 19–20
US investment developments 43–4
Broadband Stakeholder Group (BSG) 52
broadcasting
as information society services 66
must-carry rules 74–5
regulatory overlaps 71–2
and technology convergence 67–9, 71–2
Brussels I Regulation
on choice of forum
and judicial competence 192, 196
and party autonomy concept 215, 221, 223, 227
protective conflict rules 260–61, 263
and torts rule development 232–4
transport and carriage contracts 263
cyber torts jurisdiction
accessibility criteria 244–6, 250–52
and copyright infringement 243–53
general principles 232–4
and online databases 241–3, 245
and personality rights 234–7, 239, 243, 248, 250–51
place of harming event vs. place of damage occurrence 235–6, 238–43, 248–9, 252–3
restrictive interpretation 247–8, 250
re-utilization rights 241–3
seriousness requirement 236
substantive law relevance 246, 248–50
territorial scope of protection 239–40, 245, 248–9
and trade marks 237–41, 243, 245, 248, 251–2
victim’s centre of interests 236–7, 245, 251–2
e-commerce
accessibility vs. interactivity 267–8
consumer targeting 267–8, 271–2
reforms 231, 260–61
Bulletin Board System (BBS) 314
buzz marketing 411, 424–5
Canada
net neutrality policies 45, 50
reasonable traffic management definitions 45, 50
Center for Copyright Information 335–6
Child Online Protection Act (US) 519
Child Pornography Prevention Act (US) 519
children
internet grooming 489
and pornography 18, 517–19
protection of
data protection consent rules 550
and freedom of expression restrictions 517–20
choice of forum 209–10
cross-border torts
cyber torts applicability 234–43
jurisdiction principle developments 232–4
judicial competence 192–3
in multiple fora, EU approach 195–202
594  Research handbook on EU Internet law

in multiple fora, US approach 193–5
legislative competence
  Berne Convention principles 203–7
  Rome II Regulation 207–8
  US rulings 208–9
making works available
duration of copyright variations 206–7
internet server point of attachment
  challenges 197–9, 205
localization of harm 192–3, 196–7, 199–205
in multiple fora, EU approach 195–202
in multiple fora, US approach 193–5
national treatment principle 203–6
party autonomy concept
corporate scope 212–16
in consumer contracts 212–14, 219–21, 223, 228–30, 255, 275–8
definition 212
directing of business 212–14
ECJ interpretation approaches 223–7
and intellectual property rights 214–16, 219–23, 229–30
internet expansion influences 217–18
protection needs interpretation
  challenges 228–9
reform needs 228–30
state interests 221–2, 229
weak party interests 212–14, 219–21, 223, 228–30
private international law
  Alternative Dispute Resolution 14–15, 258, 278–81, 354–5
  collective redress mechanisms 279–81
consumer protection, need for 254–5
e-commerce protection challenges 255–6
  protective conflict rules 255–7, 260–61, 273–4
  purpose 254–5
targeting 257
Church of Scientology 313–14
clickstream data 399
cloud technologies 22, 85
collecting societies
  online monitoring requirements 6
Collective Management Directive (proposed) 5–6, 138–41
  collective redress
    in consumer contract disputes 279–81
    collective rights management (CRM)
    Digital Single Market impacts 298–9
    regulatory proposals 5–6, 138–41
  Common European Sales Law 338
  commons-based peer production 476–7
  Communication Decency Act (US) 518
Communication on Creative Content of Information Society 300–301
competition law
  and consumer protection 341–3
Damages Actions for Breach of EC Antitrust Rules Directive (proposed) 356
  and net neutrality 40–41
  regulatory reviews and reform proposals 15–16
Computer Emergency Response Team (CERT) 16–17
Computer Implemented Inventions Directive (proposed) 168–70
computer programs
  copyright protection
    algorithms and programming
      exceptions 90–92
    challenges 90–93
    decompilation exception 96–7
    duration 88, 103–4
    harmonisation 96
    hyperlinks and thumbnails 123–6
    implied licences 123–6
    information, protection of 90–93
    search engines regulation 93, 123–4
  technical contribution, definition 169
see also software patents

Andrej Savin and Jan Trzaskowski - 9781782544173
Downloaded from Elgar Online at 04/15/2019 08:36:27AM
via free access
Computer Programs Directive 83–4, 88
ideas exclusion 90–93
Connected Continent Regulation (proposed) 54, 296–7, 304–5
Connecting Europe Facility (CEF) 20
consumer contracts 258
choice of forum
EU policy development 258–61
limitations 256–7
party autonomy concept 212–14, 219–21, 223, 228–30, 255, 275–8
policy development 256
protective conflict rules 255–6, 260–61, 273–4
private international law protections 254
Alternative Dispute Resolution 14–15, 258, 278–81, 354–5
click-wrap agreements 276–7
contract type inclusions and exclusions 262–5
e-commerce challenges 260–61
e-commerce targeting 256–7, 266–75
EU domicile of defendant 265–6
expectation of business 266–7
jurisdiction clauses 276–8
package travel contracts 264–5
party identification 262
place of business establishment 265–6
principles 259–61
protective conflict rules 255–6, 260–61, 273–4
scope 261–7
transport and carriage contracts 262–4
website registration 277–8
website ring-fencing 270–71
see also e-commerce
Consumer Credit Directive 354
Consumer Directive
applicability 361
background 360
information disclosure duties
business name and identity 362–3
communication mechanisms 365–6
contact requirements 374–5
enforcement 368–9
information availability 367–8
ordering terms and requirements 375–7
payment terms and requirements 377
purpose 380–81
and Smart Devices 379
purpose and scope 361
consumer education
and consumer protection 15
consumer profiling 383, 397–401, 561–2
consumer protection
Alternative Dispute Resolution 14–15, 278–81, 354–5
and competitive contract law 341–3
concept development 341
customer education 15
crowdsourcing website terms and conditions 484–7
distance selling 337–8, 349
e-privacy by design 407–9
EU law development 259, 337
policy review and reform proposals 14–15
and Single Market 340–41
trustmarks and trusted labels 15
unfair contract terms 337–8, 349–50, 355–7
unfair trade practices 342
see also consumer contracts;
Consumer Rights Directive
Consumer Protection Cooperation Regulation 354, 356
Consumer Rights Directive 14, 486
quality assurance for internet sales 343
access to internet 343–5
and card payments 353
contract conclusion practices 345–7
rights to compensation 350–51
rights to withdraw from contract 348–50
warranty rights 350–53
consumers, generally
as ambassadors 429
definition 485–6
prosumers 475–7
see also crowdsourcing
contract law 383, 397–401, 561–2
competitive contract law
developments 339–43
contract stage controls
contract negotiation 346–7, 349
invitation to purchase 346–8
national vs. EU legislation 345–50
pre-contract 346, 348
remedies for individuals 348–50
e-contracts
legal challenges 433–4
technology challenges 432–3
validity of 367–8
photocopies/carbon copies, validity of 432–3
signatures, importance of 432, 441–4
unfair contract terms 337–8, 349–50, 355–7
see also consumer contracts;
e-signatures
Convention on the Rights of Persons with Disabilities (UN) 579–82, 589–90
cookies
as advertising trackers 384
and behavioural advertising 397–8
and E-Privacy Directive 72–3, 402–9
opt out and opt in mechanisms 402–6
persistent cookies 403
session cookies 403
use advantages and risks 398–401
Copyright Directive (InfoSoc Directive)
and copyright enforcement 302
Digital Single Market impacts 300–302
exceptions and limitations 85–7, 105, 112–15, 302
fair compensation requirements 131–3
grandfather clause 115
interoperability 105
on making available digital content 191, 301–2
private copying 86, 131
reproduction rights vs. dissemination rights 84–5
statutory licences 133
copyright law
content blocking 37, 322–6, 329–30
cyber torts, cross-border jurisdiction 243–53
definitions
authors’ rights 111–12
fair compensation 132–3
lawful users 96–7
literary works 83–4
normal exploitation 135
originality 96–7, 104
digital market fragmentation
challenges 5–8
digital works
challenges 89–90
and codification of law 99–105
computer programs 83–4, 88, 90–93, 96–7, 103–4
concept development 83–5
copyright categories, applicability to 90
definition overlaps 108
Digital Rights Management (DRM) 301
and Digital Single Market 299–302
duration of copyright 88, 103–4
enforcement challenges 107–8
exceptions and limitations 86–7, 90–97
fixation 89–90
ideas vs. expressions debate 90–93
information goods regulation 102–5
information, protection of 90–93
interactive works 89–90
interoperability exception 104–5, 108
legal interpretation developments 115–30
reproduction rights vs. dissemination rights 84–5
rights to fair remuneration 133–7
Index 597

search engines regulation 93, 123–4
technological protection measures (TPMs) 86, 104–5
three strikes infringement legislation 332–6
video games 89–90
digitization and availability legal challenges 6–7
orphan works 7, 24
exceptions and limitations 85–7
civil and contract law
interpretation 123–6
closed list, restrictions of 93–6, 114–15
digital works challenges 110–11
fair compensation requirements 131–7
flexibility and certainty, need for 126–30
grandfather clauses 115
harmonisation of laws 111–14
ideas vs. expressions debate 90–93
implied licences 123–6
legal adaptability 114–15
legislative reform 126–30
limitation-based remuneration 133–7
national court controls over 95
private copying 96, 131
protection of rights vs.
   fundamental freedoms 93–4, 100–102, 116–20, 535–7
public interest exception 118
purpose of 110–11, 113–14
restrictive vs. extensive interpretation 116–20
statutory licences 133–7
three step test 95, 120–23, 129–30, 135–7, 315–16
unreasonable prejudice 135–7
history and development
authors’ moral rights debate 101–2
challenges 89–90
codification of law 99–105
conceptual legacies 82–3
Digital Single Market 299–302
duration of copyright 87–8, 206–7
exceptions and limitations 85–7, 90–96
flexibility and certainty 82–4, 126–30
gradual expansion 81–2
harmonisation challenges 96, 100–102, 111–14, 141–2
inmaterial goods approach 105–6
information goods regulation 102–5
information society and internet law proposal 107–9
policy review and reform proposals 5–8, 299–302
protection of rights vs. freedom of expression 93–4, 100–102
reproduction rights vs. dissemination rights 84–5
technology role 81–2
licensing
collective rights management (CRM) 5–6, 138–41
digitization and availability 6–7
extended collective licensing (ECL) 138–40
multi-territorial licensing proposals 6
online monitoring requirements 6
voluntary collective management (VCL) 139
post mortem auctoris 87–8
principles 82–3
copyright categories 90
duration of copyright 87–8, 103–4
fair use and fair dealing 86, 94, 114–15, 128–9
fixation 88–90
originality 96–7, 104, 129
see also Copyright Directive
country of origin of harmful act 207–9
Information Society principle 71
Court of Justice
on advertising keywords and trade mark conflicts 146–51, 164–7
on party autonomy concept 223–7
on search engine trade mark infringement liabilities 145–51
on technology development and freedom of expression 529–42
Creative Commons licences 481
crimes against humanity condoning or trivialising, as hate crime 501–3
Cross-Border Payments Regulation (924/2009) 9
cross-border transactions access to medical records 31
consumer protections 14–15
e-Government initiatives 32–4
Online Dispute Resolution mechanisms 14–15, 258, 278–81, 355
payment interchange fees 9
telemedicine 30–31
variable VAT rates 10
see also choice of forum
Crowcroft, J. 39–40
crowdsourcing 3D printers, use of 473 advantages 487
case studies iStockphoto/Stocksy 466–7, 480–81, 484
Quirky Inc 464–5, 473, 477–8, 484
Threadless 465–6, 479, 484
customer empowerment opportunities 469–71
creative commons licenses 481
definition 461–2
influences of 462–3, 487
intellectual property rights 477–83
member bargaining power 483–7
member characteristics 473–7, 481–3
member status 485–6
as new business model 471–3
principles 462
prosumers 475–7
R&D 467–8, 481
terms and conditions 477–83
amendment opportunities 484
consumer protection implications 484–7
themed challenges 474
user-centric innovation 473–4
cyber crime anti-cybercrime agencies 16–17
child pornography 18
Digital Agenda 2020 proposals 16–18
and hate speech 495–6
identity theft and behavioural advertising 401
National Information Security policies 17
Cybercrime Directive (proposed) 18
Cybersecurity Strategy for the European Union 17
cyber torts accessibility criterion 244–6, 250–52
and copyright infringement 243–53
and online databases 241–3, 245
and personality rights 234–7, 239, 243, 248, 250–51
place of harming event vs. place of damage occurrence 235–6, 238–43, 248–9, 252–3
principles 232–4
restrictive interpretation 247–8, 250
re-utilization rights 241–3
seriousness requirement 247–8, 250
substantive law relevance 246, 248–50
territorial scope of protection 239–40, 245, 248–9
and trade marks 237–41, 243, 245, 248, 251–2
victim’s centre of interests 236–7, 245, 251–2
Damages Actions for Breach of EC Antitrust Rules Directive (proposed) 356
Database Directive copyright exceptions 86–7, 97–8, 102
making available right 196
databases copyright protection 83–4
duration of copyright 103–4
exceptions 86–7
sui generis rights 102–3
cyber torts cross-border jurisdiction 241–3, 245
re-utilization rights 241–3
data capping 45, 47–8, 51, 54–8

Andrej Savin and Jan Trzaskowski - 9781782544173
Downloaded from Elgar Online at 04/15/2019 08:36:27AM via free access
Data Centres Code of Conduct 27
data mining 397–8, 401
data portability 558–9
data protection
  and consumer profiling 561–2
  controller and processor, definitions 550–52
  and freedom of expression 536, 538–9
importance of 543
legitimate interests 547–8
monitoring, definition 546
policy review and reform proposals 13–14, 302–4, 407–8, 543–4, 546–65
protection limitations 552–3
reasonable expectation test 548
right to be forgotten 538–9, 555–7
Data Protection Directive
  background 543
  consent 548–50
  controller and processor, definitions 550–51
  criticism 544
  legitimate interest 547
  purpose 543
  purpose limitation principle 552–3
  right to be forgotten 555–6
  territorial scope 543–7
Data Protection Privacy Impact Assessments 561–2
Data Protection Regulation (proposed)
  accountability principle 554–5
  advantages and improvements 565–6
  background 544
  Commission powers 564–5
  consent rules 548–9, 566
  controller and processor, definitions 551–2
  and data portability 558–9
  Data Protection Authority operations 562–4
  data protection by design and default 559–61
  enforcement mechanisms 557, 562–4
  legitimate interest 547–8
  monitoring, definition 546
  Privacy Impact Assessments 561–2
  purpose limitation principles 552–3
  reasonable expectation test 548
  right to be forgotten 555–7
  territorial scope 545–7
Data Retention Directive 302, 539
decency
  advertising restrictions 425–6
  Deep Packet Inspection (DPI) 37
  defamation see freedom of expression
Denial of Service (DoS) practices 44–5
Denied Boarding Directive 263
Digital Agenda for Europe 2020
  action points 4, 581
  aims 3
  background 3–4
  on cybercrime and risk of low trust 16–18
  on digital literacy and access to internet 23–6
  for disabled persons 25–6, 570, 581–2
  for elderly persons 25–6
  in schools and libraries 23–5
digital market fragmentation
  challenges 5–15
  audiovisual services 12
  consumer protection 14–15
  copyright law 5–8
  data protection 13–14
  electronic commerce 8–9
  identification concerns 11–12
  payment and invoicing 9–10, 451–3, 456
  on e-signatures 437–41
  on interoperability 15–16
  e-health frameworks 30–31
  on network investment 19–20
  on research and innovation limitations 20–23
  Seventh Framework Programme (FP7) 20–22
  on societal change opportunities 27–35
  e-Government programmes 32–4
  energy and environmental programmes 27–9
  medical health programmes 29–31
  transport programmes 34–5
digital evidence 449–51, 454–6
digital invoicing 9–10, 451–3, 456
digital literacy and skills
  Digital Agenda proposals 23–6
digitization programmes 7, 24–5
  of disabled persons 25–6, 570, 581–2
  of elderly persons 25–6
  schools, promotion in 24
Digital Millennium Copyright Act (US)
  intermediaries liability protections 313, 316–17
  internet service provision definitions 38
Digital Right Management (DRM)
  transparency challenges 301
Digital Single Market
  aims 285–6
  Audiovisual Directive impacts 292–3, 299
  challenges 286, 294–5, 297–9, 305–6, 309–11
  constitutional framework 287–9
  Copyright Directive impacts 300
  E-Commerce Directive impacts 289–91
  and EU internet policy 305–6, 310–11
  copyright reform 299–302
digital content distribution 297–9
  net neutrality 304–5
telecommunications 296–7
  trust and privacy 302–4
  licensing and content use restrictions 297–9
  in online gambling 308–9
  open access principles 297–9
  in pharmaceutical and healthcare sector 306–8
  regulatory basis 286–7
  Service Directive impacts 291–2, 310
  Telecommunications Framework impacts 293–4, 310
digitization
  copyright law challenges 6–7
  of European cinema 25
  of orphan works 7, 24
  pan-European digital library proposals 24–5
private-public-partnerships 24–5
  technology development implications 446
Disability Action Plan 575–6
disabled persons
  Accessibility Act 582–3
  and Charter of Fundamental Rights 578–9
Digital Agenda 570, 581–2
digital literacy programmes 25–6
Disability Action Plan 575–6
European Disability Strategy 576, 582–4
  internet access advantages 570–71
  policy developments, generally 576–8
UN Convention on rights of 579–82, 589–90
website access enforcement 587–8
website access policies 569, 573–4
website access standards
  EU standards 575–9, 583–7
  International standards 573–5
  public sector website accessibility 583–7
US standards 573, 587–8
disclosure duties see information
dispute resolution
  Alternative Dispute Resolution consumer protection legislation 14–15, 258
  in e-commerce consumer contract conflicts 258, 278–81, 354–5
  Online Dispute Resolution mechanism 14–15, 258, 278–81, 355
distance selling 337–8
  protection development 358–9
  remedies 349
Distance Selling Directive 349, 358–9
DMCA see Digital Millennium Copyright Act
Doomsday Book 446
e-Authentication systems 11–12
eBay
  intermediary neutrality challenges 396
Index

liability protections 318–20

e-books

VAT rates 10

ECC-Net 258

e-commerce

Commission action limitations 8–9

consumer contract protections

click-wrap agreements 276–7

jurisdiction clauses 276–8

and party autonomy concept 275–8

website registration 277–8

dynamic packaging advantages 264–5

flexibility, importance of 274–5

history and development 358

information disclosure duties

advertising by e-mail 423–4

business name and identity 362–3

communication mechanisms 363–6

contact requirements 370–75

enforcement 368–9

information availability 366–8

ordering terms and requirements 375–7

payment terms and requirements 377

purpose 380–81

Smart Devices, implications of 377–9

internet sales 14, 338

access to internet 343–5

card payment protections 9–10, 353

and competitive contract law 339–43

contract conclusion practices 345–7

dispute resolution mechanisms 354–5

distance selling 349

e-contracts, legal validity 367–8

enforcement 353–7

EU legislation controls and limitations 338, 345–8, 353–7

quality assurance for 343–51

remedies 348–50, 354–7

rights to compensation 350–51

rights to withdraw from contract 348–50

substantive law protections 338–9, 367–8

unfair contract terms 337–8, 349–50, 355–7

variable VAT rates 10

warranty rights 350–53

liability protections (safe harbors) 8, 42–4, 312–13, 316–17

payments and payment services regulation 9–10, 353

policy

challenges 8–9, 35–6

review and reform proposals 8–10

regulation

adequacy 78–9

inconsistencies 72–6

overlaps 70–71

structure 69–70

targeting

advertising 383–4, 398–401

definition 256–7

expectation of business 266–7

interpretation, accessibility vs. interactivity 267–75

legislative treatment 271–5

sliding scale test 268–9

taxation issues 9–10

website ring-fencing 270–71

see also Digital Single Market; Electronic Commerce Directive

e-Government

cross-border electronic procurement 32–3

Digital Agenda initiatives 32–4

Points of Single Contact 33–4

website accessibility policies 370–71, 583–7


e-health

Action Plan 2012–2020 30

cross-border access to medical records 30

Digital Agenda initiatives 29–31

Digital Single Market impacts 306–8

interoperability initiatives 29–30
602  Research handbook on EU Internet law

Transatlantic eHealth/health IT Cooperation Roadmap 31
e-ID cards 11–12
elderly persons
digital literacy programmes 25–6
Electronic Commerce Directive and advertising keyword links 393–5
applicability 361
background 359
Commission action limitations 8–9, 35–6
and country of origin principle 71
and Digital Single Market 289–91
home state control principles 291
information disclosure duties 360
advertising by e-mail 423–4
business name and identity 362
communication mechanisms 363–4
contact requirements 372–4
disclosure of commercial intent/marketing 417
enforcement 368–9
information availability 366
ordering terms and requirements 375–7
payment terms and requirements 377
on information society services 64–6,
68, 76, 289–91, 420
intermediary liability protections 8,
316, 319, 537–8
internal market regulation 64–6,
289–91
notice-and-take-down-procedures 8–9
permissible restrictions 291
protections, compared with US regime 8
purpose and scope 360
and technology convergence 63,
70–71, 420–21
unsolicited communication/spam,
regulatory controls 420
electronic communications network
definition 419
Electronic Communications Network Provider (ECNP) 37
electronic communications services
definition 37
EU Single Market proposals 290
Electronic Components and Systems for European Leadership (ECSEL) 23
electronic invoicing 9–10, 451–3, 456
electronic privacy see e-privacy
electronic signatures see e-signatures
Electronic Simple European Networked Services (e-SENS) 32
e-mail
advertising identification requirements 423–4
definition 419
unsolicited mail/spam protections 418–24
e-Maritime services 34
empowerment
crowdsourcing as opportunity for 470–71
definition 469–71
endorsements 427–8
end-to-end architecture
limitations of 39–40
energy consumption
ICT life cycle assessments 27
Smart Grids 27–9
enforcement
copyright of digital works, challenges 107–8
e-commerce information disclosure
duties 368–9
internet sales 353–7
three strikes/graduated enforcement legislation 332–6
websites accessibility rules 587–8
ENIAC Joint Undertakings 22–3
environmental protection
greenhouse gases and ICT equipment
impact assessments 27
Smart Grids and Smart Cities initiatives 27–9
e-privacy
and advertising targeting 384, 399
by default and by design 559–61
Electronic Privacy Directive
cookies provisions 72–3, 402–9
Index

opt out and opt in mechanisms 402–6
privacy by design 407–9
regulation of unsolicited communication 418–24
regulatory inconsistencies 72–3
spam prohibition 73
and legitimate interests 547–8
Privacy Impact Assessments 561–2
right to be forgotten 538–9, 555–7
e-signatures
approaches to 434–5, 455–6
click acceptance policy implications 433–4, 441
and digital evidence 449–51, 454–6
hash algorithms 444–5
integrity implications 445–6
open approach advantages 454–7
qualified e-signatures 444–7
security implications 445–6
commercial uptake trends 433–4, 436
complexity challenges 447–9
and Digital Agenda 437–41
reform developments 440–41
Electronic Signatures Directive background 433–4, 455
challenges 433–4, 436–7
policy review and reform proposals 11, 437–41
principles 434–5
purpose 11, 436
technology-neutral approach 435
interoperability 433–4, 441, 448–9
public key interface (PKI) 434
purpose 11–12
technology
interface migration implications 446–7
neutrality advantages 454–5
validity
 equivalence with written signatures 435–40, 448, 450–51, 454
identification value 435–46
national interpretation role 436, 440
non-discrimination rule 439–41

passwords and usernames role in 439–40
European Cloud Computing Strategy 22
European Cloud Partnership (ECP) 22
European Convention on Human Rights on freedom of expression 503
on protection of property 104, 106
European Cybercrime Centre (EC3) 17
European Disability Strategy 576, 582–4
European Network and Information Security Agency (ENISA) 16
European Patients Smart Open Services (epSOS) 31
European Strategy for Micro- and Nanoelectronic Components and Systems 23
European Year of Disabilities (2003) 575–6
ev evidence
digital evidence 449–51, 454–6
extended collective licensing (ECL) 138–40
extremism
internet grooming 489

Facebook
advertising regulations 415–16, 427–8
commercial presence rules 416, 418
online marketing mechanisms 384
promotions guidelines 430
statement of rights and responsibilities 418
terms of use 415–16, 418
Fiat Mio 481
film
European Cinema digitization programmes 25
Framework Decision on Combating Expressions of Racism and Xenophobia by Means of Criminal Law
background 496–7
criminal offences under 497–9
inciting violence or hatred, definition 499
publication of material 499–501
604 Research handbook on EU Internet law

purpose 497
war crimes, condoning or trivialising 501–3
France
net neutrality policies 52–3
three strikes/graduated enforcement regulation 332
freedom of establishment principles 287–9
freedom of expression challenges
blocking orders 531–2, 537–8
confidentiality of communication 531–2
freedom of the press 530, 532–3
jurisdictional issues 509–12, 523–5
national protection variations 509–12
national sovereignty concept 509–10
proportionality 533
protection of individual rights 538–9
constitutional basis 510–14
duties and responsibilities 525–6
in EU law 520–23, 534–5
human rights influences 513, 520–26, 528–42
in US law 503–4, 513–15, 540
and variations in level and scope of protections 513–14
copyright law conflicts with 93–4, 100–102, 116–20, 535–7
defamation
EU law limitations 527, 534
US law limitations 516–17
hate speech 503–6
EU law limitations 527
US law limitations 517–18
obscene and indecent material
EU law limitations 527
US law limitations 517–20
technology development influences 509–11
and child pornography 517–19
data protection 536
European Court of Human Rights vs. ECJ rulings 529–42
internet, implications of 511–13, 518–20, 523–4, 529–52
internet liability restrictions in EU 523–4
freedom to provide services 288–9
free movement of services
information society services applicability 65
free revealing 472
gambling regulation
Digital Single Market impacts 308–9
General Data Protection Regulations (proposed) 407–8
genocide condoning or trivialising, as hate crime 501–3
Geocities 412
Germany
e-signature validity rules 434–5
Google
AdWords fee model 385–6
keywords use principle 384–5
liabilities 143–4, 146–9
tracking procedures 384–5
copyright infringement challenges 313, 389
Data Protection Authority joint operations 563
intermediary neutrality challenges 396
trade mark infringement challenges 389–95
greenhouse gases
ICT equipment impact assessments 27
hate crime criminalisation, justification 494, 499, 506–7
definition 490–94
prejudice vs. discrimination 493–4
EU Framework Decision 496–503
offences 497–9
animus, relevance of 499
Inciting violence or hatred 499
Publication and distribution of inciting material 499–501
War crimes, condoning or trivialising 501–3, 505–6
Restriction challenges 493–4, 507
See also hate speech
Hate speech
Characteristics
Social hierarchies 491
Themes of hate and anger 491–2
Themes of inferiority and superiority 491–2
Definition 488–93, 506
Prejudice vs. discrimination 493–4
EU policy development 506–7
Background 495–6
Cybercrime Convention protocol 495–6
Framework Decision 496–503
And extremist recruitment 489
And freedom of expression 503–6
EU interpretation 504–6
And US free speech model 503–4, 517–18
Hate crime
Differences between 490–94
Influences on 494
And human dignity 494–5, 502–3
Regulation and restriction challenges 492–4, 507
Websites
Distortion and disguising mechanisms 489–90
Health
Cross-border access to medical records 30
Digital Agenda initiatives 29–31
Digital Single Market impacts 306–8
E-health initiatives 29–31
Interoperability initiatives 29–30
Transatlantic eHealth/health IT Cooperation Roadmap 31
Howe, Jeff 461–3
Human rights
Freedom of expression
In EU, influences on 513, 520–26, 528–33
And hate speech 503–6
Limitations on 508
Right to personal data vs. right to private life 538–40
And human dignity 494–5, 502–3
And internet use
Disconnection 334–6
Right to be forgotten 538–9, 555–7
Protection of property 104, 106
Hyperlinks
Copyright protection 123–6
Sponsored links 143
IBM
Commit Patent 172
ICC Code of Advertising and Marketing Communication Practice 416, 425, 427
ICT strategies
Education and access to information 24–5
Pan-European digital libraries 24–5
Qualifications promotion 23
ICT technology
Energy and environmental aspects 27–9
And energy efficiency 27–8
Greenhouse gas emissions assessments 27
International and pan-European standards 27
Life cycle assessment 27
See also Internet technology;
technology convergence identification
Authentication 11–12
e-commerce disclosure duties 362–3
e-ID cards 11–12
Policy review and reform proposals 11–12
See also e-signatures; signatures
Identity theft
And behavioural advertising 401
Indecent material
Advertising restrictions 425–6
Definition 517–18
And freedom of expression 517–20
Information
copyright protection 102–5
public domain information 104
technology-based approach 107–9
e-commerce disclosure duties
advertising by e-mail 423–4
business name and identity 362–3
communication mechanisms
363–6
contact requirements 370–75
enforcement 368–9
information availability 366–8
ordering terms and requirements
375–7
payment terms and requirements
377
purpose 380–81
Smart Devices, implications of
377–9
public sector information
e-Government initiatives 33–4
re-use regulation proposals 7–8
website accessibility policies
570–71, 583–7
sharing
to combat cybercrime 17
information society
codified law approach proposal
107–9
Communication on Creative Content of 300–301
freedom to provide services 288–9
historical background 412
legal interpretation challenges
211–12
party autonomy concept
in consumer contracts 219–21, 223, 228–30
directing of business 213–14
ECJ interpretation approaches 223–7
and intellectual property rights 219–23, 229–30
internet expansion influences on 217–18
protection needs interpretation challenges 228–9
reform needs 228–30
state interests 221–2, 229
weak party interests 219–21, 223, 228–30
Information Society Directive see
Copyright Directive
Information Society Service Provider (ISSP) 37
information society services
country of origin principle 71
definition 64–6, 68, 76, 419–20
E-Commerce Directive coverage
64–6, 68, 76
freedom principles 288–9
in Single Market 289–91
Infosoc Directive see Copyright Directive
Injunctions for the Protection of Consumer Interests Directive 355–6
Intellectual Property Enforcement Directive 106, 300, 323
intellectual property, generally
codification proposals 105–6
crowdsourcing 477–83
rights vs. fundamental freedoms 93–4, 100–102, 116–20
Interchange Fees for Card-Based Payments Regulation (proposed) 9–10
intermediaries see internet
intermediaries
Internet Access Provider (IAP) 37–8
internet freedom provision 73–4
internet, generally
access to
connection fee trends 344–5
Digital Agenda promotion 343–4
disconnection issues 334–5
rights to 334–5, 345
business advantages 254
data protection challenges 543
digital end-to-end architecture 39–40
history 412
legislative developments 39
and national sovereignty concept 509–10
see also Digital Single Market; e-commerce; net neutrality
internet grooming 489
internet intermediaries
blocking and filtering powers blocking orders 326–32
EU cases 322–6
liabilities
advertising keywords use 388–95
Australian policy development 320–22
copyright protections 8–9, 312–13
direct consumer challenges 317
and freedom of expression 523–4
illegality, knowledge and control over 395–6
legal protection developments 313–18, 537–8
multilateral trade agreements 317
neutrality test 395–6
for third party actions 395–6
three step test 315–16
three strikes/graduated enforcement legislation 332–6
for trade mark infringements 318–20, 388–95
notice-and-take-down-procedures 8–9, 539
safe harbors 8–9, 43–4, 93, 313, 316–17
internet neutrality see net neutrality
Internet Policy Development task force 3–4
internet sale of goods see e-commerce
Internet Service Providers (ISP) blocking exceptions 56–7
blocking practices 37
content controls development 313–14
definition 37–8
see also internet intermediaries
internet technology
cloud computing 22
energy and environmental aspects 27–9
micro- and nano-technologies 22–3
research and innovation programmes 20–23
research joint undertakings 22–3
Seventh Framework Programme (FP7) 20–22
see also technology convergence
interoperability
challenges 15–16
and copyright over digital works 104–5, 108
Digital Agenda initiatives 15–16, 30–31
e-health initiatives 30–31
e-signatures 433–4, 441, 448–9
ISP service blocking exceptions 56–7
invoicing
electronic invoicing 9–10, 451–3, 456
IP telephony
telecommunications service regulation, whether excluded from 420–21
ISO/IEC 40500:2012 on access to public sector information websites 575
iStockphoto 466–7, 480–81, 484
IT security
importance of 16
see also cybercrime
Japan
net neutrality policies 50
justice, access to
and competitive contract law 341–3
lead users 472–4
legitimate interests
e-privacy and data protection 547–8
liabilities see internet intermediaries
licensing
of copyright
collective rights management (CRM) 5–6, 138–41
digitization and availability 6–7
extended collective licensing (ECL) 138–40
multi-territorial licensing proposals 6
online monitoring requirements 6
voluntary collective management (VCL) 139
Digital Single Market impacts 297–9
implied licences, hyperlinks and thumbnails 123–6
literary works
defineds 83–4
Local Motors 481

making available
databases 196
digital works under copyright 191, 301–2
WIPO Treaties interpretation 191–2
market convergence, definition 62
marketing
buzz marketing 411, 424–5
customer activities, regulation of 429–30
spam, regulation of 418–24
user-generated 424–5
viral marketing 413–14
see also advertising
mass communication, historical
development 412
media technologies see technology
convergence
musical works, copyright in 6–7

National Information Security policies 17
Netherlands
net neutrality policies 50–51
net neutrality
abusive discrimination 40–41
Assured Service Quality definition 57–8
blocking 37, 42–3
specialized services exception 54–8
competition law implications 40–41
conflict background 42
data capping 45, 47–8, 51, 54–8
definition 41–2
EU regulatory developments 38, 46–54, 58–9
BEREC interpretation 47–9, 55–6
Connected Continent Regulation (proposed) 54, 296–7, 304–5
data protection concerns 49–50
Declaration on Net Neutrality 46–7
Digital Single Market 304–5
fixed vs. mobile networks 47–8
international law challenges 49–50
national regulatory developments 50–53
policy review background 46–7
self-regulatory approaches 51–2
soft law developments 49–50
innovation implications 39–40
interoperability impacts 56–7
principles 39–40
quality of service (QoS) access 38–40, 48, 57–8
specialized service exceptions 54–8
traffic categorization 40
traffic management policies 39–41, 43–54, 58–9, 296–7, 304–5
trust concerns 40
US regulatory developments 38, 41–5, 59
Denial of Service (DoS) 44–5
FCC rulings 42–4, 54–7
harmful activities definitions 44–5
reasonable network management test 44–5
safe harbor opinions 43–4
network convergence, definition 62
Norway
net neutrality policies 50
notice-and-take-down-procedures 8–9, 539
obscene material
advertising restrictions 425–6
definition 517–18
and freedom of expression 517–20
Ofcom 51–2
official documents see public sector
information
‘on-demand’ audiovisual services 64, 68–9
regulatory overlaps 71–2
Online Behavioural Advertising Rules (UK) 406–7
Online Dispute Resolution mechanism 14–15, 258, 278–81, 355
online gambling 308–9
online marketing see advertising;
advertising keywords
Online Service Provider (OSP) 37–8
open source software 462–3

Andrej Savin and Jan Trzaskowski - 9781782544173
Downloaded from Elgar Online at 04/15/2019 08:36:27AM
via free access
Index 609

originality principle 96–7, 104, 129
orphan works 7, 24

party autonomy
conceptual scope 212–16
in consumer contracts 212–14,
219–21, 223, 228–30, 255,
275–8
definition 212
directing of business 212–14
ECJ interpretation approaches 223–7
and intellectual property rights
214–16, 219–23, 229–30
internet expansion influences on
217–18
protection needs, interpretation
challenges 228–9
reform needs 228–30
state interests 221–2, 229
weak party interests 212–14, 219–21,
223, 228–30

payments
by card, e-commerce consumer
protections 353
cross-border payment regulation 9
electronic invoicing 9–10, 451–3, 456
interchange fees 9
Single Euro Payments Area (SEPA) 9
Payment Services Directive (proposed)
9–10, 353
personal data see data protection
personality rights
cyber torts cross-border jurisdiction
234–7
Pirate Bay 326, 328–9, 532
Points of Single Contact 33–4
pornography 18
and freedom of expression 517–18
post mortem auctoris 87–8
Principles Governing Jurisdiction,
Choice of Law and Judgments in
Transnational Disputes (ALI) 210
printing press 412
privacy
in Digital Single Market 302–4
and internet intermediaries 336
see also e-privacy
Privacy and Electronic
Communications Directive see
e-privacy
Privacy Impact Assessments 561–2
private international law
consumer contract protections
and Alternative Dispute Resolution
14–15, 258, 278–81, 354–5
click-wrap agreements 276–7
and collective redress mechanisms
279–81
contract type inclusions and
exclusions 262–5
e-commerce challenges 260–61
e-commerce targeting 256–7,
266–75
EU domicile of defendant 265–6
expectation of business 266–7
jurisdiction clauses 276–8
need for 254–5
package travel contracts 264–5
party identification 262
place of business establishment
265–6
principles 259–61
protective conflict rules 255–6,
260–61, 273–4
purpose 254–5
scope 261–7
transport and carriage contracts
262–4
website registration 277–8
website ring-fencing 270–71
profiling 383, 397–8, 397–401, 561–2
prosumers 475–7
public key interface (PKI) 434
public sector information
e-Government initiatives 33–4
re-use regulation proposals 7–8
website accessibility policies
570–71, 583–7
quality of service (QoS) access
Assured Service Quality definition
57–8
BEREC guidelines 48

Andrej Savin and Jan Trzaskowski - 9781782544173
Downloaded from Elgar Online at 04/15/2019 08:36:27AM
via free access
challenges 39–40
trust concerns 40
Quirky Inc 464–5, 473, 477–8

racism see hate crime; hate speech
radio
on-demand services 71
regulation 71
see also broadcasting
Radio Equipment and
Telecommunications Terminal
Equipment Directive 407
railways
electronic rail passenger services
34–5
recommendations 427
Rehabilitation Act (US) 573
research and development
Commission support for 20–23
crowdsourcing initiatives 467–8, 481
free revealing 472
lead users role in 472–4
user-centric innovation 473
Re-Use of Public Sector Information
Directive 7–8
Rome II Regulation
choice of law principles
country of origin of harm 207–8
legislative competence 207–8
party autonomy concept 216, 223,
227–8
Rome I Regulation
choice of law principles 213–14
consumer contract protections,
scope and exclusions 263–5
party autonomy concept 216, 223
protective conflict rules 261
safe harbor clauses 8–9, 43–4, 93,
312–13, 316–17
Safer Internet Centres 18
Safer Internet Programme 2009–2013
18
sale of goods see consumer protection;
e-commerce
search engines
implied licences for hyperlinks and
thumbnails 123–6

importance of 386–7
liabilities
contributory liabilities 149–51
general principles 145–51
trade mark use in course of trade
rulings 145–51
regulation 93, 123–4
and right to be forgotten 557
sponsored links 143–4, 394
trade marks and advertising keywords
conflicts
additional functions recognition
159–64
background 143–5
blurring actions 161–4
and fair competition 164–5, 386–8,
391–5
harm to advertising function 160,
165
harm to investment function
160–61
harm to origin function and
confusion 153–67, 388–95
initial interest confusion 157–8
judicial interpretation trends
146–51, 164–7
search engine contributory liability
146–9
search engine sponsored links
143–4, 392, 394
trade mark identification 153–4
and unfair advantage 162–4, 391–5
use by junior users 151–4, 156–64
use in course of trade 146–9,
151–3, 388
service convergence, definition 62
Services Directive
applicability 361
background 360
information disclosure duties 360
business name and identity 362–3
communication mechanisms 364
contact requirements 374
enforcement 369
information availability 367
ordering terms and requirements
375–7
Index

endorsements 427–8
recommendations 427
taste and decency restrictions 425–6
regulatory overlaps and exclusions 72, 420–22
terms of use 414–16
unsolicited communication/spam 418–24
viral marketing 413–14
software patents
Boards of Appeal interpretation 168–9, 175–82
definitions and interpretations 171–2
EPO patentability assessment mechanisms 173–5
EPO procedures, influences of 182–3
EU proposed legislation 168–70, 173
legal challenges 171–3, 182–7
machine-based approach to 168–70, 173
national court interpretation challenges 179–82
need for 168–9
opposition to 185–6
problem and solution/technical approach to 173–5
technical contribution 169, 175–82, 186
Unified Patent Court proposal, potential impact 183–5
spam
E-Privacy Directive prohibitions 73
regulation of 418–24
in social media services 418–24
Specialized Services as blocking exception 54–8
definitions 54–5
stock photography crowdsourcing initiatives 466–7, 480–81
Stocksy 466–7, 480–81
taste advertising restrictions 425–6
taxation law

etronic invoicing 9–10, 451–3, 456

 Andrej Savin and Jan Trzaskowski - 9781782544173
Downloaded from Elgar Online at 04/15/2019 08:36:27AM
via free access
VAT rate differences for online and offline sales 10
technology convergence
cookies provisions 72–3
definitions 61–3
and digital interactive television 74
e-privacy concerns 72–3
and E-Privacy Directive 72–3
EU regulatory policies 63–4
growth trends 60, 218
and information society services 64–6
internet freedom provisions 73–4
legal challenges 60–61
market convergence 62
must-carry rules 74–5
network convergence 62
regulatory adequacy 78–9
regulatory inconsistencies 72–6
regulatory overlaps and uncertainties 70–72
regulatory structure 69–70
service convergence 62
spam prohibitions 72–3
and telecommunications services 66–7
terminal convergence 62
voice over IP services 75–6
technology development
commons based peer production 476–7
crowdsourcing as new business model 471–7
free revealing 472–3
lead users role in 472–4
phases 471–2
user-centric innovation 473
Telecommunications Framework
information society services definition 419–20
and internet intermediaries liabilities 333–4
and Single Market 293–4, 310
telecommunications network definition 419
telecommunications networks
consumer choice 19
cooperation agencies 19
Index  613

and fair competition 164–5, 386–8, 391–5
harm to advertising function 160, 165
harm to investment function 160–61
harm to origin function and confusion 153–67, 388–95, 391–2
initial interest confusion 157–8
judicial interpretation trends 146–51, 164–7
search engine contributory liability 146–9
search engine sponsored links 143–4, 392, 394
trade mark identification 153–4
and unfair advantage 162–4, 391–5
use by junior users 151–4, 156–64
use in course of trade 146–9, 151–3, 388
cyber torts cross-border jurisdiction 237–41, 243, 245
regulation trends 146
Trade Marks Directive
on additional functions 159–64
collision, interpretation of 159
identical marks and goods 152–4
use in course of trade 151–3
traffic management
Connected Continent Regulation (proposed) 54, 296–7, 304–5
data traffic studies 58–9
Denial of Service (DoS) practices 44–5
fixed vs. mobile network policies 47–8
national regulatory developments 50–53
and net neutrality 39–41
reasons for 58–9
Specialized Services exceptions 54–8
US regulatory developments 44–5
Transatlantic eHealth/health IT Cooperation Roadmap 31
transport and travel

Air Traffic Management Solutions for the Single European Sky (SES) 34
contracts, protective conflict rules applicability 262–4
electronic rail passenger services 34–5
e-Maritime services 34
package travel contract protections 263–5
travel see transport and travel
TRIPS Agreement
three step test 120–21
trustmarks and trusted labels 15
UNCITRAL Model Law
and e-contract validity 367
aggressive commercial practices, definition 424–5
disclosure of commercial intent/ marketing 416–17
taste and decency restrictions 425–6
unsolicited mail/spam protections 423
Unfair Contract Terms Directive 484–5
Unfair Trade Practices Directive 342
Unified Patent Court proposal 183–4
United Kingdom
net neutrality policies 51–2
private copying exception 96
software patents criticism 186
torrent tracking site blocking 326–30
United States
blocking policy 42–3
Digital Millennium Copyright Act intermediaries liability protections 313, 316–17
internet service provisiondefinitions 38
freedom of expression
clear and present danger doctrine 515–16

Andrej Savin and Jan Trzaskowski - 9781782544173
Downloaded from Elgar Online at 04/15/2019 08:36:27AM
via free access
constitutional basis 503–4, 513–15, 540

defamation 516–17

hate speech 503–4, 517–18

limitations on 514–20

minimum contact test 516–17

making works available, choice of forum

American Law Institute guidelines 210

country of origin of harmful act 209

judicial competence 192–6

legislative competence 208–9

web content accessibility policies 573, 587–8

Universal Services Directive 210

must-carry rules 74–5

voice telephony definition 76

unsolicited communication see spam

usage based billing (UBB) 45

user-centric innovation 473

value added tax 473

electronic invoicing 9–10, 451–3, 456

offline/online sales rate differences 10

video games 413–14

copyright challenges 89–90

and freedom of expression 518

viral marketing 413–14

voice over IP services (VoIP) 489–90

regulatory overlaps 75–6

voluntary collective management (VCL) 139

von Hippel, Eric 472–4

war crimes 501–3, 505–6

definition 501

interpretation challenges 501–2

Web Access Initiative (W3C) 573–4

Web Content Accessibility Guidelines 573–5

webmail services 422

websites 473

accessibility 582–3

Accessibility Act 582–3

access trend influences 572–3

Convention on the Rights of Persons with Disabilities (UN) 579–82, 589–90

for disabled persons 569–89

EU policies 574–9, 583–7

flexibility mechanisms 569

monitoring and enforcement 587–8

policy approaches generally 571–2

and public sector information 570–71, 583–7

technological developments 573

web content standards, EU policies 574–9

web content standards, international policies 572–5

web content standards, US policies 573, 587–8

auction sites 269–71

categorization challenges 396

censorship challenges 269–71

customer registration practices 277–8

hate speech 489–90

distortion and disguising mechanisms 489–90

hyperlinks and thumbnails 273–4

implied copyright licences 123–6

passive vs. interactive 269–71, 273–4

ring-fencing 270–71

WIPO 270–71

Copyright Treaty 270–71

making available, interpretation 191–2
Index 615

reproduction rights vs. dissemination rights 85
three step test 120–21, 316
Performance and Phonograms Treaty making available, interpretation 191
reproduction rights vs. dissemination rights 85

Wittem Group European Copyright Code (ECC) 100–102
xenophobia see hate crime; hate speech
YourOnlineChoices 406
YouTube 312–13