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Ten Years of Artist's Resale Right (ARR) in the United Kingdom

2006-2016: A Fair Share for Artists or a Levy on the Art Market? 125

The Artist's Resale Right Regulations 2006 (SI 2006/346) (as amended) came into force on 14 February 2006—ten years ago this year. ARR is a controversial right. This article explores the controversies surrounding it by considering the rhetoric used by those for and against the right.

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Restoring Lost Honour: the Assessment of Libel Damages in Germany 128

This article critically highlights the effectiveness of the German civil tort of defamation and its remedies. It considers the development and level of immaterial damages in Germany in respect of the infringement of an individual's personality right, analysing the significance of the recent Kachelmann case, where the highest ever compensation of €635,000 in damages for pain and suffering for a defamation suit was awarded. The article highlights the limits to freedom of expression in Germany when the press reports about intimate, private details of an accused person's life while he is on trial.

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This article considers the significance of *MET v Hungary* in which the Fourth Section of the European Court of Human Rights distinguishes *Delfi AS v Estonia* on the facts but endorses the more problematic aspects of *Delfi AS*.

DAMIAN TAMBINI

The BBC Charter 2016: Another Case of "Draft Media Law Syndrome"? 140

This article reports on the current state of play on review of the BBC Charter, with a focus on the potential reform of the institutional arrangements for regulating BBC services. The government commissioned Clementi Review recommends that Ofcom take a leading role in regulating the BBC in future. The article argues that whatever solution is reached, the key issue is how to protect the independence of the BBC whilst maintaining effective governance and accountability. More attention should be paid to the process of decision-making on the BBC, in particular funding settlements and the process of Charter Review itself. The uncertainty associated with such processes can lead to a chilling effect which could be mitigated by more clearly defining independence in the charter itself and moving to a planned, orderly procedure for funding decisions and Charters in the future.

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How much? An Examination of Damages for Infringement of Copyright in Photographs 143

In September 2015, HHJ Hacon handed down a judgment *Absolute Lofts South West London Limited v Artisan Home Improvements Ltd*, which addressed damages in relation to the infringement of copyright in photographs. This article examines his reasoning and the implications of the decision for future cases.

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Prince Albert of Monaco's Secret Love Child—ECtHR Recognises the Press's art.10 Right to Reveal a Secret which the Public has a Right to Know: Couderc v France 146

The European Court of Human Rights has ruled on yet another privacy case involving a member of the Monegasque Royal family. The case brought this time against France pitted the art.10 ECHR freedom of expression right of the publishers of *Paris Match* against the art.8 ECHR privacy rights of Albert II, Prince of Monaco, Caroline's younger brother. The Prince claimed that a news article in *Paris Match* revealing his secret paternity infringed his privacy rights. As with *Von Hannover v Germany (No.2)*, the Court ruled that there was a public interest in the article and that the French national courts had failed to properly conduct the balancing exercise between the two convention rights. The judgment has been analysed by commentators from a feminist perspective.

PETER SMITH

No Damages for "unnecessary and disproportionate" Interception of Journalist's Mobile Phone Records, Says IPT 149

The Investigatory Powers Tribunal has declined to award a journalist at *The Sun* any damages, despite finding that the interception of his mobile phone data was unlawful.

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Ofcom's Revised Guidelines on Fines—a New Emphasis on Deterrence 150

Ofcom has published revised guidelines on the level of its fines across all areas that it regulates, including telecoms, broadcasting and postal services. The revised guidelines, which took effect from 3 December 2015, will be applied to future investigations. On the face of it, the amendments are incremental. But Ofcom's accompanying statement suggests that it is looking to provide a greater deterrent effect by imposing heftier fines in appropriate cases.

JONATHAN BLAIR AND KARIM AMIJEE

An Ofcom Future for On-Demand Video Regulation 153

Ofcom has published a statement on the regulation of on-demand programme services following the closure of ATVOD. The statement sets out the key forms, rules and procedures that apply with effect from 1 January 2016, the date on which Ofcom became the sole regulator of such services. The document also consults on two proposals concerning investigation procedures and regulatory costs.

KIRSTEN TOFT

No Glee For Fox—Court of Appeal Confirms Relevance and Admissibility of “Wrong Way Round Confusion” Evidence 156

This comment takes a look at the ruling in the recent decision by the Court of Appeal in *Comic Enterprises Ltd v Twentieth Century Fox Film Corp* to uphold the decision of the High Court with particular focus on the Court's approach to “wrong way round confusion” evidence. In dismissing Fox's appeal LJ Kitchin has laid to rest any confusion over the relevance and admissibility of evidence of wrong way round confusion (subject, of course, to any further appeal).

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