

# Contents

Preface	ix
Table of cases	xi
Table of statutes	xxxiii
Table of statutory instruments	xlili
Table of European legislation	xlvi
Table of abbreviations	lix
<b>1 Regulating information technologies</b>	<b>1</b>
Information technology law?	2
The information age, IT law, and their paradoxes	3
Regulatory theory	11
Regulatory strategies	15
Looking forward (and backward and sideways)	22
<b>2 Regulatory competence over the internet</b>	<b>23</b>
Introduction	24
Substantive legal harmonisation	25
Competence under public and private international law	26
Transnational online crime	28
Transnational online civil disputes	50
<b>3 Intermediaries within online regulation</b>	<b>72</b>
Introduction	73
Who is an 'intermediary'?	75
Intermediary involvement: Attractions and concerns	81
Regulatory involvement of intermediaries	87
'Immunities' under the Electronic Commerce Directive	104
US intermediary immunities	117
Trends in intermediaries' regulatory roles	122
<b>4 Copyright and the internet</b>	<b>126</b>
Introduction	127
Hyperlinks	129
Search engines	138
File sharing	143
Technological protection mechanisms and digital rights management	162
Conclusion	166
<b>5 Domain names</b>	<b>169</b>
Introduction	170
National trade mark law, jurisdiction and domain names	178

	Domain name disputes in the courts	181
	Dispute resolution and rights protection mechanisms	197
	Protecting trade marks in domain names: Which remedy?	214
	The future of domain name disputes	216
<b>6</b>	<b>Electronic commerce</b>	<b>218</b>
	Introduction	219
	Online contracting	221
	Transnational online contracting	245
	Formalities and signatures	262
<b>7</b>	<b>Cybercrime</b>	<b>271</b>
	Introduction	272
	What is cybercrime?	272
	Victims and perpetrators	274
	Computer fraud	278
	Computer 'hacking'	286
	Conclusions	305
<b>8</b>	<b>Content crimes</b>	<b>306</b>
	Introduction	307
	Cybercrime convention	324
	Concluding remarks	328
<b>9</b>	<b>Privacy and data protection</b>	<b>329</b>
	Introduction	330
	Data protection: The nature of the problem	331
	Data protection and privacy	333
	Regulatory approaches and initiatives	337
	The Data Protection Directive 95/46/EC and its UK implementation	342
	Other rights of the data subject	360
	Exemptions	376
	Administration and enforcement	382
	Data protection and the internet	384
	Case Study: 'Big data'	389
<b>10</b>	<b>Surveillance, data retention, and encryption</b>	<b>393</b>
	Introduction	394
	The Regulation of Investigatory Powers Act 2000	395
	Interception: basic principles	396
	The future of interception, data retention and encryption in the UK	439
<b>11</b>	<b>Intellectual property rights in software</b>	<b>443</b>
	Introduction	444
	Choice of intellectual property protection	444
	Copyright protection	447
	The Software Directive and its implementation	459
	Patents and computer related inventions	466
	Intellectual property rights in databases	475
	The Database Directive	476
	Concluding remarks	484

<b>12</b>	<b>Software licences, free and open source licensing (F/OSS), and 'software as a service' (SaaS)</b>	<b>487</b>
	Introduction	488
	Goods or services or something else?	489
	The software licence	498
	Copyright ownership	500
	The licence	503
	The EC Software Directive	506
	'Shrink-wrap' licences	508
	Resale of software licences	514
	Free and open source software licensing (F/OSS)	517
	Software as a service (SaaS)	533
	Conclusions	538
	Index	541