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EDITORIAL: A WHOLE NEW WORLD

Carl Makin and Isabel Ringrose

We are extremely pleased to introduce the inaugural volume of the York Law Review. As the first student editors of this exciting new journal, we have spent the first half of this academic year supporting the authors in shaping and pruning their work. As 'pioneers' for this new publication, we were given free reign by the Editorial Board to develop the journal's trajectory – something which has proved both exciting and challenging. We have spent many hours poring over timelines, plans, and templates to build the foundations necessary for a modern student legal publication. We have had to create new processes, systems, and ways of working where none previously existed and have had to expand and develop our personal skill sets immensely, on what has been a steep team learning curve. All of this was done with one eye on the future. Through our work, we have set a future vision for the journal – one based on growth and expansion, with the aim of showcasing the excellent calibre of academic writing produced by students at York Law School.

As many of these papers were selected prior to our recruitment, it was our job to impose some order and structure on these diverse writings. Whilst working through the various papers, two themes seemed to recur. The first was the need for and ability of the law to adapt to new challenges, whether that be new technologies, such as algorithms affecting the competitive pricing of goods, or new social frontiers, such as the conflict between the disability rights movement and the treatment of disabled foetuses under abortion law.

Secondly, the papers illustrate the limits of the law as a tool to achieve certain ends. Though calls are often made for further regulation and reform, some of the authors touch upon the need for wider social action to bring about systemic change. Changes to the law can be a force for good, but legality does not always equate to social advancement, and so the law is limited in what it can do to address different challenges. The techno-legal capabilities of many large corporations now far surpass the capacity of regional or national legislatures, meaning that corporate buy-in or negotiated solutions are the only effective means through which policymakers can change behaviour. Social media giants or video game producers, for example, can easily innovate and program around rigid legislative frameworks. Regulation must cast a wider net and take on new forms in order to protect social media users from harmful comments and protect children from the dangers of online gambling.

In the first article of this volume, Deric Lui and his colleagues explore the grey areas that exist at the intersection between video games and gambling law. Through a well-informed and thoughtful analysis of the failure of the law to properly regulate 'loot boxes', a growing phenomenon in game development, the authors highlight the potential gap in protection for vulnerable groups. Though their analysis illustrates the inability of the law to keep apace with technological innovations, it is alert to the limits of law. It recognises that legal regulation often triggers a response on the part of industry, which can act to engineer around unwanted or cumbersome intervention.

Keeping with the theme of interactive media, Elinor Coombs' paper tackles the recent UK Supreme Court decision in *Lucasfilm*, which considered whether Stormtrooper helmets from the Star Wars franchise amount to sculptures under copyright law. Elinor's thesis is that although a just outcome was reached in this case, the reasoning was suspect. This significant case has provided no answer to the question: What is a sculpture? Instead, it simply muddies the waters of a seemingly unnecessarily complicated area of intellectual property law.

Alexander Stewart-Moreno engages with a new frontier of EU competition law: algorithmic collusion. Though the mention of a cartel often conjures images of smoky rooms and organised crime, Alexander's piece engages with more nuanced forms of illegal activity, whereby corporate entities employ new technologies, which have as their aim or consequence anti-competitive effects such as price fixing. It deploys intriguing modes of analysis, drawing on both legal and economic theories to critique current EU competition policies. He argues that prioritising consumer welfare over economic orthodoxy may be short-sighted, and that a more balanced 'ordoliberal' approach must be taken to ensure healthy competition in the digital single market.

Kathryn Chick's paper argues that the balance between freedom of expression and protection from harm is not met by current Crown Prosecution Service (CPS) Guidelines on the Malicious Communications Act 1988 and the Communications Act 2003, which regulate harmful online communication. The paper looks at the growing prevalence of online communication platforms and their intrusion into our daily lives. It contends the balance between protecting freedom of expression and protecting the public from online abuse ought to swing in favour of the latter – with the primary aim being to prevent harm. Although freedom of expression is a human right and is fundamental to a democratic society, the benefits conferred by freedom of expression should not be deployed as justification for online posts intending to cause harm. Kathryn suggests that the CPS Guidelines should take a more proactive approach to the protection of victims from online communications that cause harm.

In the penultimate paper of this volume, Rachel Adam-Smith takes aim at the Abortion Act 1967. She contends that the Act has failed to keep apace with significant social and medical advancements. Focusing in particular on the position of the disabled foetus, her thesis is that there exists a disparity in the law, whereby non-disabled foetuses are afforded an additional level of protection, in the form of a time-limit on abortion.

This differential treatment, Rachel argues, is without a rational basis. Given advances in genetic testing and the time at which those tests are carried out, the ongoing distinction made in abortion law serves to undermine the value placed on disabled lives. Her most potent argument, in our view, is that too often choices around abortion are made not because of a conscious wish on the part of mothers to select against certain disabilities, but instead because of wider social issues which disempower families of disabled children and cause unnecessary and avoidable hardship and difficulty. Rachel makes a passionate and convincing call for reforms in this area, arguing *inter alia* for parity in time limits for both disabled and non-disabled foetuses.

Lauryn Clarke writes from her perspective as a first-year LLB student exposed to York Law School's problem-based learning approach for the first time. She explores how this approach to learning law not only provides students with the necessary substantive legal knowledge, but also promotes the development of a strong work ethic and an understanding of the professional conduct and ethics necessary for a future career both within and outside the legal professions. Other modules on the course, such as Legal Skills, emphasise the importance of group dynamics, and the role of individuals within a group working environment. Lauryn suggests that through reflective learning, the curriculum encourages students to take a proactive approach to their own professional development, both as individuals and as part of their wider 'student law firm'. By reflecting on the impact of recent strike action, Lauryn emphasises the necessity of each 'cog' in the problem-based learning system in enabling students to effectively tackle the legal problem scenarios they are presented with.

Many thanks are owed to the individuals who played a part in bringing this first volume to print. Our first thanks must go to the Editorial Board of the Review. The Chair, Professor Caroline Hunter, has provided unwavering support to the editors of the journal, enabling us at every stage to realise the passionate vision that we had for this publication. We would like to extend our special thanks to the school's Academic

Lead for the journal, Dr Sue Westwood. Not only has Sue provided us with strategic support, guidance, and clarity throughout our tenure, she has also been an invaluable source of sanity-checking and encouragement on our journey to publication. We also thank Dr Jed Meers for his unparalleled optimism, enthusiasm, and motivation throughout this process, especially at times when, as an editorial team, we were unable to 'see the wood for the trees'. On a final note, we would like to thank Martin Philip, our academic librarian, for his responsiveness to the many questions we have sent whilst trying to support authors to refine their work, to ensure that their work was of the highest quality.

Outside of the Editorial Board, we also extend our thanks to Petronel Geyser, who spent many hours reviewing and polishing rough drafts of all of the papers. Without her exemplary knowledge of OSCOLA, the referencing within this volume would not have reached such an impeccable standard. Our thanks also go to Rhiannon Griffiths, who very kindly lent her time and expertise as a guest reviewer. We have also received a significant amount of administrative and logistical support throughout our tenure, and for this we would like to thank Louise Prendergast and Salwa Eweis. We also thank our copy editor, Jen Moore, for her flexibility and understanding throughout the process.

As the contents of the following articles shows, the authors have put a significant amount of time and energy into developing strong papers in their areas of interest. We would like to thank them for their sincere co-operation and support throughout the editing process.

On a final note, as the editors of a journal emanating from a school that prides itself on reflective learning, we want to reflect a little on our personal journey in putting this publication together. When we were initially asked to work together on the York Law Review, both of us thought that it would be a low-level commitment that would entail reviewing a limited number of papers for a student-led academic publication. In hindsight, we were wrong, but gladly so. The level of

collegiality, camaraderie, and indeed friendship that we have developed over the year of our tenure has provided us both with entertainment and companionship through every stage of establishing the journal and publishing this first volume. We have, invariably, been each other's first port of call and most recent contact over the past weeks and months, which is something completely unexpected but most certainly welcomed. It is hard to tell at this stage what reception this journal may receive, but we hope that the following pages illustrate the enormous efforts of the authors in working to our tight schedule and sometimes demanding deadlines, which has meant that despite everything (including a pandemic) we were able to publish our first volume in line with the timescales we established at our very first meeting.