

WAIKATO LAW REVIEW 2002

A GUIDE TO E-COMMERCE LAW IN NEW ZEALAND by Simpson Grierson's x-tech group, Wellington, Brookers Ltd, 2002, 382 pp. New Zealand price \$94.50 plus gst.

This book is the first substantial single-bound text to address e-commerce law from a New Zealand perspective and is therefore a first step to filling an obvious need in the legal text landscape. The book lists 14 lawyers from Simpson Grierson's x-tech group as contributors to the book (p ix). The x-tech group specialises in e-business and information technology (see <http://www.x-tech.co.nz>).

As is stated in the introduction, there is no discrete body of e-commerce law. Instead, there is said to be "a mixture of existing and (in some cases) new legislation and various rules of common law and private international law" (p 6). Indeed, the text covers all of these sources of law and also includes codes of practice and industry standards. The text targets "businesses engaging in or intending to engage in e-commerce" (p 7). The book is very accessible, even for someone new to the area or with little or no legal training. As such, the text would be suitable as a text for business or commercial school papers in the area. While not providing the detailed legal analysis needed for advanced undergraduate and postgraduate papers, the text would be useful to bring students to a level of understanding where in-depth critical analysis could begin.

The text covers a wide range of topics but maintains a practical focus. This is evidenced in the industry-based rather than legal approach of the chapters on "Electronic Payments" and "Contracts with Service Providers". The text also provides introductory sections giving brief descriptions of general areas of law, in order to allow a wide audience to gain access to the contextualised applications which follow.

Not surprisingly, intellectual property features prominently in the text. The Chapter on intellectual property identifies the major issues within this area in e-commerce, and the footnote references provide useful links to case-law and secondary sources which would allow further analysis. The sections on piracy and rights in databases are not always present in intellectual property overviews of e-commerce. These sections add another dimension by applying several of the intellectual property concepts, which results in giving the reader a deeper understanding.

The Chapter on "Computer Misuse" usefully describes the relevant sections of the Crimes Amendment (No 6) Bill, in terms of the existing Crimes Act 1961. This blending of the Bill and Act, along with accompanying analysis, provides an extremely accessible presentation of the computer misuse clauses. I took particular interest in the analysis of section 253. This relates to accessing a computer system without authorisation (or "hacking"). The section draws comparisons with the Computer Misuse Act 1990 (UK) and uses English, Australian and United States case-law to illustrate possible application. It would have been helpful if this level of analysis had been applied to all sections.

Rather surprisingly, given the book's targeted audience, there is a comparatively extensive discussion of electronic material as evidence, and of jurisdictional issues. Both of these chapters deal with complex areas which are presented in a clear, coherent format, and case-law and hypothetical scenarios illustrate these two chapters

Chapter 10 on tortious liability stands out as a gem in this text. This section describes five specific torts and then applies these to the e-commerce situation. The

section includes a high-level analysis of relevant international and national case-law. The application of traditional torts to new situations is described with a precision that allows the reader to grasp quickly the developments that e-commerce may bring to the law of torts. This chapter ends with a topical discussion of internet-service provider liability under several heads, which links to other parts of the book.

Finally, Chapter 12 covers specialist areas, which cover such diverse areas as online offering of securities, electronic banking, online games of chance, and provision of health-related services. This chapter briefly covers six discrete areas and refers to the relevant legislation and/or codes of practice.

The book includes a glossary which defines some of the ever-increasing technical language associated with computer and internet technology. I was pleased that the book also includes an index and tables of cases and legislation. Although the tables may not be heavily used by business users, they increase the book's usefulness as a student text.

As a guide to the law of e-commerce, this book gives the reader a good start, and for all but a legal scholar or practitioner the book may be sufficient. This text covers a vast area of law in 382 pages, and so must necessarily deal with many areas briefly. One criticism of the text, notwithstanding its limitations and audience, is its rather light coverage of consumer protection and privacy issues, which could have been developed. On the whole, this book is a good introduction to e-commerce law, ideally suited for the libraries of businesses engaged in e-commerce, and to students of business studies. I will be recommending this text for my e-commerce students in the Waikato Management School.

The danger with a text in a volatile area of the law is that parts of the text will become dated rather quickly, as legislation is enacted and further cases in the area are decided. Notwithstanding this, the text represents a step forward in clarifying the law of e-commerce and I commend the x-tech group on their publication.

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