

GX1718

Ollscoil na hÉireann, Gallimh
National University of Ireland, Galway

SEMESTER 2 Examinations, 2003/2004

Exam Code(s)	IT121
Exams(s)	
Module Codes(s)	LW502
Module(s)	INFORMATION TECHNOLOGY LAW AND REGULATION
Paper No.	
External Examiner(s)	Dr. C. Waelde
Internal Examiner(s)	Prof. L. O'Malley
<u>Instructions</u>	Please answer any <u>THREE</u> questions. All questions and part questions carry equal marks unless otherwise indicated.
Duration	<u>TWO</u> Hours
No. of AnswerBooks	
<u>Requirements:</u>	
Handout	
MCQ	
Statistical Tables	
Graph Paper	
Log Graph Paper	
Other Material	Electronic Commerce Act 2000; Directive 95/46/EC (Data Protection Directive) Directive 99/93/EC (Electronic Signatures Directive) European Communities (Directive 2000/31/EC) Regulations 2003 Theft and Fraud Offences Act 2001
No. of Pages	
Department(s)	

PTO

1. Do EITHER 1(A) OR 1(B):

1(A) You are a member of an IT group that has been asked to advise a small company which is interested in selling its products via the Internet. Write a brief memorandum for the company's managing director indicating the kind of legal problem the company is likely to encounter by engaging in such electronic commerce.

OR

1(B) 'The introduction of the E-Sign Directive has been a worthwhile exercise for two main reasons. In the first place, it has removed uncertainty as to the legal status of electronic signatures generally. Secondly, the establishment of a common framework for the operation of electronic signature services across the European Union is necessary to the further development of e-commerce in Europe.' (McDonagh, M & White, F, 'Electronic signatures: the legal framework and the market reality in Ireland' in *Commercial Law Practitioner*, Aug/Sept 2003, p 228 at 236.)

Examine the way in which the transposition of the E-Sign directive into Irish law has clarified the status of electronic signatures, and consider why the market for public key infrastructure (PKI) technologies remains relatively weak in spite of these legal developments.

2. 'It is certainly false ... to regard the Internet as a lawless place. It is much truer to say that the Internet is regulated by a hotchpotch of national laws. But it is truer still to acknowledge that, very often, states have very little or no ability to enforce observation of their laws in relation to Internet activity.' (L. Edwards and C. Waelde, 'Regulating Cyberspace: Is there a Role for Law?' 8 *Computers & Law* 5.
Discuss.

3. Do EITHER 3(A) OR 3(B):

3(A) You work in the IT department of Non-Standard Bank Ltd (the 'Bank'). Adi, one of the Bank's customers, has been worried of late concerning the storage of personal information about herself on the Bank's computers. You have been asked by the head of the Customer Relations department to advise her on the following:

(i) Adi recently applied to the Bank for a loan but was told that, having examined the Bank's computer files, she was not a suitable credit risk. Adi now alleges that there must be incorrect information in the computer files and demands copies of any data concerning her in the company's possession. She insists that all such data be destroyed forthwith.

(ii) Although Adi had a grievance with the Bank, it emerges that she has also applied for an employment position with the Bank's subsidiary company, which is in the security business. Unfortunately she was unsuccessful because she failed a security clearance check. She now demands access to her security file or files, and alleges that she is being unfairly treated either because her former employer recorded information about her anti-war activities on his personnel files, or the police have inaccurate information in their computer files.

(iii) Adi has also complained that she is in receipt of unwanted email advertising from the Bank concerning the alleged merits of their financial investment products.

OR

PTO

3(B) Having regard to the exemptions and exclusions given to data controllers, and to the limitations on the rights of data subjects, examine the extent to which the Data Protection Acts 1988 –2003 adequately protect the privacy of personal data in Ireland.

4. Do **EITHER** 4(A) **OR** 4(B):

4(A) Copyright law has become more than ever the favoured means of protection for computer programs. Discuss.

OR

4(B) Avalon Software Ltd (Avalon) developed a program for use by doctors which helped them to run an efficient medical practice. The program, which was called 'Medmagic', was sold for use on Apple computers. One of the programmers who had helped to develop the program was Fred Alexander (Fred). In 1992, Fred quit his job at Avalon and began work on a competing program for medical practitioners called 'Megamed', which was written for PC and PC compatible computers. Avalon executives have seen Megamed in action and believe that a substantial part of its Medmagic program has been copied and that Fred has infringed its copyright. Although there has been very little copying of code, Avalon alleges that Fred has copied the scheme of its program and certain sequences. Advise Avalon on the desirability of bringing an action for copyright infringement against Fred under Irish law.

5. Do **EITHER** 5(A) **OR** 5(B):

5(A) Analyse and discuss the legal situation of On-line Intermediaries such as Internet Service Providers (ISOs) and Host Service Providers, and assess the success of the EU's endeavors to limit their potential legal liability.

OR

5(B) You work for a software company that specialises in the production of software for the engineering services sector. The company is about to enter a critical bespoke software agreement. Write a memorandum to your boss clearly explaining what a software licensing agreement is, and indicating the terms which you believe require the company's most careful attention to protect both its commercial and legal interests.

6. Do **EITHER** 6(A) **OR** 6(B):

6(A) 'The comprehensive nature of the Convention [on Cybercrime], as well as the geographic spread of its signatories, means it is likely to remain one of the most significant international legal instruments in the field of computer crime for the foreseeable future.' [Ian Walden, 'Computer Crime' in Reed, C & Angel, J *Computer Law*, 5th Ed 2003, at p316.] Discuss.

OR

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6(B) You work in the IT department of Galway University (the 'University') which has experienced serious security breaches in recent months. You have been asked to write a advisory memorandum for the President concerning John, an IT student who appears to be a computer 'hacker' of considerable skill.

John gained unauthorised access to many University computer systems by using an off-campus computer and the telephone network. Last month, he gained unauthorised access to the University's computer systems and, using his expertise, was able to give himself the status of Systems Manager. This status gave him power to interfere with the computer system. He deleted the files of professors, changed the passwords on the files of research students, left an obscene message on the President's file, raised the examination grades recorded on his own student file, and read the proposed examination in Information Technology Law and Regulation, a copy of which had been left in the file of the foolish professor involved.

Advise as to the possibilities and practical difficulties involved in prosecuting John for any computer crimes he may have committed.

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