

"A Guideline to Legal Issues within
Electronic Commerce and Information
Technology"

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Section 1: Intellectual Property

A) Nathan is a music composer; he has a variety of legal resources to address his worries regarding the alteration to rock version of his compositions released by Classics Studios. As the owner of the original of the work, he is has protection under Copyright, Designs and Patents Act 1988 (CDPA), as this is compromising his moral rights. CDPA Section 80 section protects the "Right to object to derogatory treatment of work", this includes alterations that could harm their reputations. Section 80 (1) states the author has "right in the circumstances mentioned in this section to not have work subjected to derogatory treatment". Section 80 (2a) states "treatment of any work means any addition, deletion from or alteration or adaptation of the work" showing Nathan's within his right to take the legal route. He should firstly review his contract with Classic Studios to see if it includes any set clauses allowing for major alterations. If the contract allows for adaptations of work, Nathan must see if these changes violate his moral rights or if the contract has any protection in relation to the integrity of his compositions. If the contract does not mention these issues, Nathan has a case to object to the alteration. To proceed, Nathan should find evidence of the changes made to his composition, highlighting they can harm his reputation, this evidence will be important for demonstrating that the alterations are derogatory, as stated in CDPA 1988 Section 80. If Classic Studios is unresponsive or refuses to modify the release, Nathan should discuss having some control over the final version or propose an acknowledgement disclaimer stating this song has been adapted. Lastly, he can take legal action that could be taken for infringement of his moral rights, he should consult an intellectual property lawyer to navigate this process and ensure his reputation and moral rights are protected.

(b) Ryan's idea is to post a documentary link on his website; however, this can result in copyright infringement. Copyright, Designs and Patents ACT (CDPA) 1988, it focuses on material being distributed without permission and that it is illegal, to which Ryan's action likely violate this Act. Section 16 CDPA 1988 states the copyright holder's right, Section 16 (1)(d) highlights that communication of work distributed to public, including publishing it online to which the copyright holder has total control. Section 20 CDPA 1988 outlines the right to communicate work to the public, including posting online links for downloading. Ryan's FlimFlix subscription allows him to have access to documentaries but for personal use only. By sharing the film through a link on his website, Ryan would be distributing the film without any permission from the holder of these films, meaning that he violates Section 20 of CDPA 1988. This unauthorized distribution violates the copyright holder's rights to distribute and communicate the work. Section 296ZA CDPA 1988 is based on circumvention to which it is illegal in sharing a link that FilmFlix requires which person to subscribe to attain the film. This breaches FilmFlix services and violates the Computer Misuse Act 1990, which makes circumventing protections unlawful. Section 96 of CDPA 1988 is based on damages due to copyright infringement which Ryan could be responsible for. Section 107 covers criminal offenses in relation to types of copyright infringement, including distribution of copyrighted works without permission, which could result in imprisonment. Instead of sharing the documentary, Ryan should create original content that discusses the theme of the film, an example being the negative effects on health when eating fast food. He could provide a link to the official page and inform users that the content is from FilmFlix, this can help avoid legal issues.

(c) Justin is a programmer for a software company specializing in children's games, however he can face legal consequences for developing and selling his own game online. His decision to use his employer's gaming software on his lunch break is likely going to lead to issues. Justin should review his contract to understand whether it includes restrictions on using company software for personal projects. Employment contracts usually state any work created using company tools belongs to the employer. He should examine the terms and conditions of the gaming software he used, if the license restricts personal use, he has violated the software licensing agreement. He faces legal risk to which his employer can claim ownership of the game under Section 11(2) Copyright Designs and Patents Act 1988, this section states work created by an employee in the course of employment is owned by employer unless there is an agreement that says otherwise. He used company resources to which employer could claim rights over the game, it doesn't matter if he created the game on his lunch break in addition, Justin also could have breached Section 50(c) CDPA 1988, which regulates the lawful use of computer programs, unauthorized use of company software for personal gain can lead to legal action. Finally, Justin should seek

professional advice to assess his scenario, right now he should stop selling the game until he verifies legality and review company policies to help understand his rights, Justin may face serious problems if he continues selling the game.

d) Jane should document her speech to support her seeking legal advice, she can find witnesses that attended the debate and confirm she was the speaker delivering the arguments. Jane should store a copy of the article as proof of how work is being misrepresented. Jane should send a formal complaint to the publisher of the newspaper highlighting the situation and requesting a correction of the article. She should then consider taking legal action for copyright infringement under Copyright, Designs, and Patents Act (CDPA) 1988, under Section 97 of CDPA, Jane could seek damages for her for the unauthorized use of her intellectual property. Under CDPA 1988 Section 3(1) and 3(2), Jane's rights are protected by various statements, as it states literary works including speeches and copyright for these works exist as they as they are recorded in any form, even if it is on someone's notes. This ensures Jane's speech was protected by copyright, Section 17 CDPA lets Jane have exclusive right to copy her work, meaning Chris's article could lead to an infringement. Jane moral rights are protected under Section 77 as it guarantees the right to be identified as the author of a work. Section 80 also supports her as she is provided with protection against derogatory treatment of her work, ensuring it is not altered or misrepresented in a way that could harm her reputation. Finally, Jane should take necessary steps to protect her speech, including documenting evidence, seeking legal advice and pursuing legal action for violations of her moral rights and copyright infringement. This helps her assert her control over her work and possibly get compensation for the misuse of her work.

Section 2: Data Protection

(a) The retail company needs customers to complete a survey questionnaire without giving any information regarding the actual purpose of survey collection, which is a violation of data protection laws under General Data Protection Regulation (GDPR). Article 13 GDPR is breached as personal data is collected from a data subject, the data must provide clear and specific information about the purpose for the reason the data is being collected. That means that there needs to be a way for the survey to be conducted and how information will be used. The failure to not inform customers about the purposes of data collection is breaching Article 5(1)(a) GDPR, as it requires personal data to be processed lawfully, fairly, and in a transparent manner. It also states data must be collected for specified, legitimate purposes and must not be processed in a way incompatible with those purposes. Transparency is a key principle of data protection and does not provide details about the purposes of data collection undermines this requirement. By not letting the customers know of the purpose of data collection, the company fails to ensure that the data processing is transparent, therefore breaching Article 13 and Article 5(1)(a) of GDPR.

(b) Article 6 GDPR highlights that personal data can only be processed when it is lawful and for an exact purpose. In this scenario, asking for sexual orientation information is not necessary for the transaction of purchasing bottled water. Therefore, this request is not necessary, and it is not relevant to the purpose of the transactions. Article 5(1)(c) reinforces that personal data must be “adequate, relevant and limited to what is necessary”, meaning there must be a clear motive for the data collection. The information requesting customers’ sexual orientation is not relevant for a retail transaction involving bottled water. It would be irrelevant to collect such as personal data. Article 9(1) GDPR prohibits the processing of special categories of personal data, such as sexual orientation, unless any of the rules in Article 9(1) apply. In this case, none of the exemptions apply in this scenario, meaning that processing this information is illegal without explicit, informed consent and a legitimate reason under the GDPR. The retail company's behavior violates the GDPR due to unlawful processing of sensitive personal data. Thus, the retail company's behavior violates the GDPR and constitutes unlawful processing of sensitive personal data.

(c) The refusal to supply company employees with any information when they request access to their data breaches Article 15 GDPR. The article grants data subjects the right to access their personal data, meaning employees are within their right to obtain personal data. If the data is being processed, employees are entitled to receive information about the purpose of processing. The company is violating the law by not responding to requests, organization must provide a copy of personal data being processed in a structure commonly used without any delay. Finally, the company must respond to such an access request within one month, however there could be an extensions period for an additional two months, but we must notify the data subject. Therefore, refusal to supply requested data breaches the rights under GDPR Article 15 due to being an infringement.

(d) This practice violates Article 5(1)(e) GDPR as it focuses on personal data not being retained for longer than necessary for the purpose for which it was collected. Employers must have a clear data privacy policy specifying the timeline in holding employee records, ensuring compliance with legal requirements. When the data is no longer needed, it must be deleted or at least anonymised. Holding data indefinitely without any valid reasoning poses a legal risk, therefore organisations should implement reviewing stored data, ensuring that only relevant information is retained. Not complying can result into employees taking legal action, including fines from data protection authorities. Businesses should consider the ethical implications of privacy rights when determining how long to retain personal records.

(e) Not informing anyone at the company about the personal data breach violates Article 33 of GDPR, which requires organisations to notify relevant supervisory authorities within 72 hours of becoming aware of a breach, unless it is unlikely to result in a risk to individuals rights and freedoms. The company must assess the potential risks of the breach and document its findings, if there is any level of risk, even if not high, the authorities must still be informed. GDPR Article 34 highlights individuals must be notified if the breaches pose an elevated risk to their rights and freedoms. Even when individual notification is not required, the company should document the incident, its response measures and steps taken to mitigate future risk. A failure to follow these requirements can lead to regulatory penalties and damaging the brand reputation.

Section 3: Advertising

a. In CAP Code Section 22.8, marketing communication for e-cigarettes must not encourage or appeal to non-smokers. The advertisement states “if you have not smoked before try our e-cigarette,” which contradicts this rule. The phrase promotes e-cigarette use even if they are not already smokers, which is prohibited on 22.8. The intention of e-cigarette marketing should be targeting existing smokers looking for an alternative, rather than new users of nicotine products.

Secondly, the advertisement has a phrase “look cool with our new stylish design” which can mislead to under Section 3.2 of the Cap Code. This section states that marketing communications must not mislead consumers by exaggerating benefits or making claims that cannot be substantiated. This implies that using e-cigarettes will enhance a personal image or status, which is not a factual claim. Wording can mislead consumers to purchase the product based on a misleading perception. As a result, the advertisement is not legal because it targets non-smokers and makes misleading statements about the product benefits.

b. Section 5.1.3 CAP Codes states that children should not be shown using dangerous equipment without direct adult supervision. The advertisement features a child holding a toy gun and aiming to shoot, which presents a safety concern. Even if the gun is a toy, the imagery promotes unsafe behaviors and could encourage children to engage in dangerous activities without supervision. By showing a child how to use a toy in this way, the advertisement doesn’t regard important safety standards, making it non-complaint with the CAP Code. Furthermore, Section 4.2 CAP Code emphasizes that marketing communication must not cause fear or distress without a reason. Advertisements should not use violent images that could upset viewers. A child holding a toy gun and aiming to shoot can be alarming and cause distress to parents or affected individual of gun violence. The advertisement violates this CAP Code because of safety concerns not in place and the potential to cause distress.

c. The marketing for the drink Slosh is in violation of advertising regulations. Under Section 18.2 CAP Code it prohibits the promotion of alcohol that can enhance attractiveness, social status or confidence. In the advert, the phrase “get more attractive and popular Drink Slosh!” suggest consuming the product can make the drinker more well liked and good looking. This message encourages that alcohol can improve social standing but also directly contradicts regulations aimed at protecting vulnerable individuals from misleading and harmful associations with alcohol. Section 3.6 of the CAP Code prohibits subjective claims that can mislead consumers through presenting opinions as factual assertions. The statement “get more popular and attractive” is an opinion rather than an objective fact and can mislead consumers to believe this product will result in increased attractiveness or popularity. Such claims can lead to expectations that are unrealistic for consumers, therefore this is a violation of marketing regulations that aim to ensure that advertisements do not exploit consumers, especially products that can have significant health implications.

d. The dieting advert breaches CAP Code Section 13.3, as it restricts weight reduction products that in any way appeal to individuals under the age of 18. The statement within the advert states “suitable for all ages” which interprets that underage children can use diet capsules. This message can lead to harmful consequences for younger people who may feel conform to a specific body image. Section 3.1 CAP Code states that marketing communications must not mislead consumers, the statement “eat as much as you want and watch the weight fall off” is very misleading because it implies that weight loss can occur without any lifestyle changes, such as dietary alteration or exercising. This unrealistic promise can mislead consumers into thinking they can achieve significant weight loss without any effort; therefore, the product’s marketing could create a false sense expectation about its effectiveness and lead to potential disappointment or even harm.

Section 4 Computer Crime

a) Bobby's using his computer to create a Trojan virus violates Section 3A Computer Misuse Act 1990, this section prohibits the creation, supply, or obtaining of articles including viruses. By intentionally creating a Trojan virus, Bobby has the intent to cause harm to Southeast Power Ltd. The creation of such a virus, without the consent of the power supply company, violates the law. The virus was created to cause a shutdown to highlight Bobby's knowledge of the potential damage his action could cause.

b) Bobby targeted Southeast Power LTD's servers, breaching Section 3 of the Computer Misuse Act 1990, because this action causes a widespread disruption affecting 20 million residents' power supply. This means it is a serious offense because it is an unauthorized act to impair power supply. Bobby's action is harmful due to deliberate targeting of public service, making it a serious computer crime due to impacting millions.

c) Bobby's sending threatening text messages to Mr. Singh breaches two UK legislations: Malicious Communications Act 1988 (Section 1) and Protection from Harassment 1997 (Section 2). Causing distress or fear of violence through text messages can be viewed as harassment, texting Mr. Singh with threatening language is enough for Bobby to breach Section 2 of the Protection from Harassment Act. Section 1 of the Malicious Communications Act is based on communication that is offensive, threatening or intent to cause anxiety. Bobby's message causes fear for Mr. Singh's safety. Bobby's actions are punishable under these acts and aim to protect individuals from emotional harm.

d) Bobby using a stolen password to access medical records violates many offenses, Section 1 Computer Misuse Act 1990 as he has accessed without authorizations, also Section 2 of the same law as he intends to commit further offences as he wants Mr. Singh to give him his job back in return for not making medical records public, this is known as blackmail. Personal health information being accessed violates UK GDPR Article 5 (1) (f) as personal health information is confidential, and Bobby should be penalized for it.

e) Bobby's wanting Jackie to use a dictionary attack and gain unauthorized access to the bank's computer is a major offense under UK law. Serious Crime Act 2007 Section 44 states the act of intentionally encouraging, assisting or inciting another person to commit a criminal offense. His encouraging his girlfriend to access Mr. Singh's bank account makes Bobby breach this act. The Computer Misuse Act 1990 Section 1 is broken here, as Jackie is trying to access the bank's computer. Despite the attempt being unsuccessful in finding Mr. Singh's account, the attempt to access it without permission is an offense. Both Bobby and Jackie could face legal consequences, with Bobby facing charges under Serious Crime and Jackie having breached the Computer Misuse Act.

f) Bobby hacking Mr. Singh computer to write malicious script that caused the computer to freeze for 3 hours every day at 9am breaches Computer Misuse Act 1990 Section 3. The reason being is it illegal to cause unauthorized modification of computer material and Bobby creating script that deliberately disrupts. This act was premeditated, the script was run daily at a specific time, causing significant disturbance meaning that he had intention to cause harm which is a serious offence in UK law.

Section 5: Consumer Protection

(a) The salesman has told her the fridge is a good brander and would last over 20 years without any issues. Katrina is within her right in using section 9 Consumer Rights Act 2015 because it requires goods for satisfactory quality because the fridge froze all items within 2 months and the salesman's statement was false. Also, the statement breaches Misrepresentation Act 1967, as its Katrina may have been persuaded by the 20-year minimum without any problems, to which Katrina entered the contract due to this false statement.

(b) The retailer's wanting a £100 repair fee is not aligning with Consumer Rights Act 2015. To be exact Section 23(1) grants consumer the right to repair or replace items without additional cost for faulty goods. Since the fridge was defective, Katrina should not face extra charges because Section 19(3)(c) Katrina is entitled to a price reduction or to even reject the goods. The retailer actions are seen as unfair business practice and Katrina can issue this to consumer protection authorities or pursue legal action to enforce her rights.

(c) Katrina is entitled to in relation to the damage fridge under Consumer Rights Act 2015. Section 23(2) Consumer Rights Act 2015 allows Katrina the right to request a repair or to replace the faulty fridge. Katrina can use Section 24 (5a) of the same Act as it allows her to reject the product after one repair if it still does not conform to the contract terms. Also, Section 24(5a) highlights if the fault is discovered within six months of the purchase, Katrina is entitled to a full refund or a replacement. The remedies offered by Consumer Rights Act aim to protect consumer's interests, ensuring that they do not deal with defective products. Overall, Katrina can either have the fridge repaired, replaced, or refunded, depending on her preference.

(d) Katrina can use Consumer Protection Act 1987 Part Section 2(1) for personal injury caused by a defective product, such as her broken arm. The product caused her injury meaning Katrina is entitled to claim damages for medical costs and any other suffering due to her arm. The Consumer Protection Act 1987 places liability on the manufacturer for injuries caused by defective goods, regardless of whether the defect was intentional or not. Katrina can seek compensation for the damaged flowerpot under the Consumer Right Acts 2015 section 19 allows consumer to claim a remedy if they goods that purchased was damage.

(e) Under Consumer Rights Act 2015 Section 34 allows the right to demand repair or replace digital content such as software. In this instance, the software is not up to scratch due to a watermark bug, which means it does not meet the quality or standards. This act specifically states the digital content must be of satisfactory quality, fit for purpose and as described. The watermark bug is preventing it from working properly, Section 34(2) highlights when digital content is faulty, the consumer is entitled to request a remedy which includes a repair or replacement.

Section 6: Ethics

(a) The investor's proposed scheme has violated numerous legal provisions, including the Copyright, Designs and Patents Act 1988, Section 17, which is unauthorized reproduction of copyrighted works as infringement. Section 23 of the same Act prohibits dealing with infringing copies, whilst section 92 of the Trademarks Act 1994 is being breached when using a publisher's name on unauthorized copies, highlights trademark infringement. From a deontological ethical point of view, the scheme is against Kant's universalizability test, as it believes all businesses participating in counterfeiting, the publishing industry will collapse, it also treats authors and publishers as means rather than ends, violating the principle of respecting each other's autonomy and rights. Utilitarian analysis might imply lower prices of books can benefit students, the long-term consequences harm society overall by undermining the publishing ecosystem that supports quality educational content, reducing creative control, and discouraging authors from producing new works. Finally, the scheme violates established professional standards, including the International Publishers Association's Freedom to Publish principle which includes respect for intellectual property rights. Despite the investor's great intention of educational access, the scheme is legally and ethically immoral.

(b) The investors need to consider legal laws and ethical rights. The Toys (Safety) Regulations 2011, under Section 4 mandate that toys sold in the UK must carry the CE mark, which ensures it is compliant with safety standards. However, the toys received by the investor from Mongolia lack the CE mark, which directly violates this regulation. Additionally, the Consumer Protection Act 1987, under Section 10 prohibits products that can cause harm. Since toys can be harmful to children due to the materials like small magnetic parts, this act is being violated. The General Product Safety Regulations 2005, Regulation 5 requires products must be safe to use, to which the toys fail to do so. Regulation 8 highlights the need for transparency about any risks associated with products, the investor planning to sell the toys without informing the public about possible dangers means it breaches this act.

Ethically, the situation presents a moral problem, from a deontological perspective the safety of children should be the top priority, regardless of the financial consequences for the investor. Morally protecting children's health outweighs the desire to recoup a financial loss, however a utilitarian approach can consider the benefits of saving jobs and the hardship of jobs. However, putting children at risk is not justified, the harm caused by selling these toys could have a lasting consequence for the business reputation. The British Toy & Hobby Association's Code of Practice highlights the importance of ensuring all toys meet safety standards, to which these toys do not follow. Numerous studies show that CE marking is crucial in reducing toy-related injuries, and failing to comply can lead to harming children's health and irreversible damage to the business. Therefore, the ethical and legal issues highlight the investor shouldn't sell these toys.

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