

## BOOK REVIEW

**Eoin Carolan and Ailbhe O’Neill, *Media Law in Ireland*, 2<sup>nd</sup> edition, (Bloomsbury Publishing, 2019)**

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Legal regulation of the media has always posed difficulties, with the law seeking to strike an appropriate balance between protecting and upholding free media expression and ensuring that individuals’ rights such as the right to privacy or reputation are not unfairly encroached upon. In recent times, the rise of ‘citizen journalism’ and the ever-increasing influence of more informal, and difficult to regulate, social media in public discourse have made effective legal regulation in this area even more challenging. In light of the ‘fluid nature of media law’,<sup>1</sup> the second edition of *Media Law in Ireland* is thus a welcome addition to knowledge in the area, significant changes to the media landscape having occurred since the first edition, which was published in 2010.

Authors, Eoin Carolan and Ailbhe O’Neill, declare at the outset that the focus of the book is ‘a discussion of the law as it impacts upon the media in its more traditional sense - the broadcasters, editors and journalists who have been regarded for decades as occupying a critically important democratic and constitutional role as the “Fourth Estate”’.<sup>2</sup> This approach is eminently sensible. The intricacies and complexities of regulating social media warrant a dedicated text. However, despite the focus on traditional media, the discussion and analysis in *Media Law in Ireland* still provides ample food for thought on how traditional areas of Irish law such as the right to privacy, defamation and even contempt of court might apply, or indeed need reconsideration in order to regulate, newer forms of expression, often by private individuals, on social media sites and other internet platforms.

The book opens in chapter one with an excellent exposition of theories of media freedom of expression, providing a thought-provoking backdrop for the discussion and analysis of the current Irish law which is provided in the remainder of the book. Chapter 2 follows with a thorough investigation of the laws protecting media freedom of expression which, importantly, covers the relevant jurisprudence on the Irish Constitution (Article 40.6.1<sup>o</sup>) and the European Convention on Human Rights (Article 10). A significant message which is clearly made by the authors in this chapter is that the entitlement to rely on the protection of these provisions is dependent upon ethical and responsible journalistic practices.<sup>3</sup> This links to the, often blurred, distinction between what the public has an interest in knowing and what the public may be interested to know. Only in the former instance is media freedom of expression protected to its fullest extent and the line between that which the public have an interest in knowing and that which the public may be interested in is often contested as between the media and the subjects of media attention and reporting.

Having explored both the theory and laws relating to freedom of expression, the authors proceed to offer a comprehensive examination of the areas of law one would instinctively associate with the media regulation, that is, the right to privacy (chapter 7), censorship (chapter 3), defamation (chapter 6) and media access to and reporting on the courts (chapter 5). All of these topics are meticulously explained and areas for improvement of the prevailing

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<sup>1</sup>Eoin Carolan and Ailbhe O’Neill, *Media Law in Ireland*, 2nd edition, (Dublin: Bloomsbury Publishing, 2019), v.

<sup>2</sup>Ibid, vi.

<sup>3</sup>Ibid, pp 33-34 and pp 51-60.

law are identified. The text also offers insights on broadcasting regulation (chapter 8) and regulation of the press (chapter 9), as well as engaging chapters on media ownership (chapter 10) and the media and politics (chapter 4).

Chapter 4 offers a very interesting discussion of the Irish prohibition of the broadcast of political advertising<sup>4</sup> in section 41(3) of the Broadcasting Act 2009. The arguments for and against such prohibition are outlined and Irish law is evaluated with reference to the jurisprudence of the European Convention on Human Rights. The authors highlight that a blanket prohibition on political advertising is not compatible with Article 10 of the Convention<sup>5</sup>, a fact that has not affected the Irish law, which continues to prohibit such broadcasting without exception. The discussion closes by questioning why broadcasting is so special in this context, particularly when the internet has become such a significant platform for public debate and information. In this context, the authors raise some interesting questions regarding the need to revise the approach to regulation in this area and highlight the interesting lack of legislative attention to this topic in an Irish context. This discussion of the media and politics is an important one which is expounded well here. This debate will likely be of interest to teachers of media law who can use it as a vehicle to assist students in debating topics like the continuing importance of broadcast media in the age of the internet, the importance of impartial reporting of political matters in and by the media and the ever-present challenge of internet regulation.

In the preface to this text, the authors comment that given ‘the pace and scope of developments’ in media law, ‘it is difficult to provide anything more than a snapshot of the developing jurisprudence at any particular point in time’.<sup>6</sup> Whilst this is undoubtedly a correct assertion, the authors have provided significantly more than a snapshot, offering a comprehensive, authoritative and thoroughly accessible overview of Irish media law. The book is a vital text for any practitioner, academic or student with an interest in the area, providing an essential gateway to understanding the complexities and intricacies of this ever-evolving area of legal study and practice.

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<sup>4</sup> Ibid, pp 131-147.

<sup>5</sup> Ibid, 135.

<sup>6</sup> Ibid, v.