

JOURNAL ON TELECOMMUNICATIONS & HIGH TECHNOLOGY LAW

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FROM THE EDITOR

Depending on one's faith in technological progress, the Internet and the rise of social media have either permanently obliterated the legal concept of privacy or merely posed new challenges when applying existing law to unforeseen circumstances. Whether or not a truly private life is possible in the age of Google, Facebook, and Twitter, it is clear that traditional notions of privacy law are not equipped to deal with the shift from concerns about intrusive paparazzi to the everyday aggregation of personal information online. Samuel Warren and Louis Brandeis's "right to be let alone" takes on a quaint irony in an era where social media users eagerly broadcast intimate details about their personal lives across the World Wide Web. Nevertheless, the unprecedented ability of computer communications to aggregate personal information and preserve it indefinitely raises serious concerns about discrimination, defamation, and the growing inability to escape the digital record of one's past. Privacy law has yet to recognize the full extent of these challenges and develop new legal tools to resolve them.

In December 2010, the Silicon Flatirons Center at the University of Colorado Law School brought together a distinguished group of privacy scholars, journalists, and industry representatives to debate these issues in the context of modern news reporting. Titled *Privacy and the Press: Scoops, Secrets, and Ethics in the New Media Landscape*, the conference explored issues such as the shifting privacy norms of professional journalism, anonymous commentary and the "unmasking" of abusive online personalities, and the evolving nature of the right to a free press. Thanks to the hard work and influential scholarship of Professor Paul Ohm, this conference on information privacy has been established as an annual tradition at Colorado Law, and we hope that it will contribute to this evolving discipline for years to come.

The *Journal on Telecommunications and High Technology Law* is pleased to publish in this issue five papers presented at the *Privacy and the Press* conference, as well as a variety of scholarship on telecommunications policy, smart grid energy regulation, and consumer genetic testing. Professor Jeffrey Rosen begins the conversation with an overview of the tension between privacy and free speech online, exemplified by the European concept of a "right to oblivion." Professor Neil M. Richards follows with a piece exploring the inadequacy of the Brandeis privacy torts applied to electronic communications. Professor Amy Gajda then warns of the societal danger of allowing privacy regulations to restrict news reporting about crime and the people involved in it. In light of the Internet's promise of viral self-promotion, David Lat and Zach Shemtob discuss the changing definition of a public figure for purposes of defamation law. Professor James Grimmelman

then explores how “first class objects” affect how personal information is represented in computer databases. Professors James Miller and James E. Prieger examine America’s 2009 switch to digital television and the strategic decisions broadcasters made when timing that transition. Silicon Flatirons Fellows J. Pierre de Vries and Kaleb A. Sieh offer a collection of essays on wireless interference compiled from a November 2010 conference in Washington, D.C. Colorado Law student Andreas S. V. Wokutch then proposes a new framework for regulation of smart grid non-utility service providers, and fellow *Journal* editor Angela L. Morrison explores the privacy dangers of consumer genetic testing.

I am grateful to the *Journal’s* editorial board and staff, whose hard work and friendship this year have made countless hours of proofreading and production not only bearable, but one of the best parts of law school. Articles Editors Jennifer McDonald, Shirin Chahal, Angela Morrison, and Meredith Simmons deserve credit for their thoughtful editorial work on each article in this issue, and Production Editors Therese Kerfoot and Jake Adkins have my sincere thanks for their attention to detail and commitment to seeing the publication process through to the end. Managing Editor Alison Jensen excelled at planning the *Journal’s* budget and social events, Executive Editor Catherine Holtgrewe ensured that staff members received well-deserved academic credit for their work, and Resource Editor Christian Alexander kept cite checks on schedule by diligently locating obscure source materials. Student Note Editors Kimberly West, Desta Asfaw, Kazuyo Morita, Rebecca Siska-Salkin, and Angela Wade each worked closely with student authors, inspiring an impressive range of scholarship that we are pleased to recommend for publication in the next volume of the *Journal*. Associate Editors Vlad Etinger, Tawnya Ferbiak, and Christine Rinke also proved invaluable in helping keep the production process on track. I appreciate the efforts of the entire staff to bring this issue to press, but Symposium Editor Madelaine Maior and Associate Symposium Editor Janna Fischer also deserve special commendation for their hard work. I am proud of what we all accomplished this year and am confident that the best is yet to come as the *Journal* reaches the upcoming milestone of its tenth volume.

I thank the Colorado Law faculty and the Silicon Flatirons Center for their support of the *Journal* and helpful guidance throughout the year. We are fortunate to have many trusted mentors such as Professors Phil Weiser, Dale Hatfield, Brad Bernthal, Preston Padden, and Andy Hartman, and it has been a pleasure to work with Anna Noschese, Jamie Stewart, and the rest of the Silicon Flatirons staff. I also am grateful to journal manager Martha Utchenik for her wealth of institutional knowledge and personal dedication to the *Journal*, as well as to the members and editors of the *University of Colorado Law Review* and the *Colorado Journal of International Environmental Law and Policy* for their cooperation and collegiality.

Finally, I am pleased to dedicate this issue to Professors Paul Ohm and Harry Surden, who as faculty advisors to the *Journal* have opened their minds, offices, and e-mail inboxes to more questions, comments, and frantic pleas for assistance than I can count. Their wise counsel and generosity with their own time and expertise has made editing this journal a valuable learning experience on both an academic and a personal level. I admire Professor Ohm's ambition in expanding the *Journal's* focus into the information privacy field and particularly appreciate his efforts this year to bring that goal to fruition. With bright and capable members and editors, forward-thinking advisors, and some of the most thought-provoking scholarship in the technology and telecommunications fields, the *Journal on Telecommunications and High Technology Law* is truly something special, and it has been an honor to be a part of it.

Eric P. Schmidt
Editor-in-Chief

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