

# **LEGAL FRAMEWORK FOR e-RESEARCH: REALISING THE POTENTIAL**

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## INTRODUCTION

**Professor Brian Fitzgerald<sup>1</sup>**

The conference and research project that produced this book have operated throughout 2006, 2007 and 2008 in a rapidly changing knowledge landscape. One of the most significant changes is that e-Research has moved from being a specialist activity or technique to one that now promises to be adopted as a methodology for almost all research.

Over the last three years we have seen an enormous uptake in the use of online social networking tools and other Web 2.0 modalities. Innovation policy around the world has moved to embrace the idea that the exchange of ideas through networks is now a critical factor to finding new ways of doing things and enhancing productivity.<sup>2</sup> Notions such as “user generated”, “peer produced” and “collaboration” or “crowd sourcing” which are hallmarks of the Web 2.0 era are rapidly becoming part of mainstream research methods.

Apparent in this changing landscape is the need to be able to foster a pure, dynamic and serendipitous exchange of ideas – information flows. For the most part the technology can provide this opportunity yet the law remains as a potential roadblock. In response to this challenge this book aims to explore how the law might flow with the technology to promote and sponsor – enable rather than inhibit – the dynamic and enormous potential of e-Research.

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<sup>2</sup> Sacha Wunsch-Vincent and Graham Vickery, *Participative Web and User-Created Content: Web 2.0, Wikis and Social Networking* (2007) Organisation for Economic Co-operation and Development, available at <http://www.oecd.org/dataoecd/57/14/38393115.pdf>; OECD, *Shaping Policies for the Future of the Internet Economy*, Annexes, available at <http://www.oecd.org/dataoecd/1/28/40821729.pdf>; OECD, *Seoul Declaration on the Future of the Internet Economy*, 18 June 2008, available at <http://www.oecd.org/dataoecd/49/28/40839436.pdf>

Part One of this book considers the broader prospect and context of what e-Research will allow. Part Two looks more closely at the role law will play in the e-Research environment. Part Three focuses on the key issues of data exchange and data management highlighting important legal issues. Part Four reflects on the changing nature of Scholarly Communications while Part Five looks at the fundamental role of agreements for collaborative endeavour (contracts) in structuring collaboration and calls for greater consideration of way we can streamline the process. Part Six examines the role and operation of privacy law in an e-Research world while Part Seven posits a new approach to commercialisation that embraces the paradigm of open innovation. Part Eight looks at the international legal implications for e-Research and Part Nine considers the national survey we undertook on e-Research, collaborative agreements and data management.

Some of the key themes that emerge in this book are that:

- e-Research provides tremendous opportunity yet to realise its full potential we need to support it through forward looking institutional, legal and policy frameworks
- Data exchange is a critical yet potentially overwhelming exercise in this new environment so we must work hard to facilitate data management, interoperability, access and reuse
- Privacy, intellectual property and agreement issues present immediate yet not insurmountable challenges. They need to be considered in terms of potential law reform, institutional and policy development and the practices employed in the research sector
- e-Research is a global activity so our approaches and solutions must be cognisant of global trends and practices in law and policy
- Ultimately research is originated by people and in building the e-Research platform we are embedded in a network of human as well as technological relationships. We need to understand how these relationships exist and how they might be nurtured and accommodated or might even change in this new landscape.

The underlying theme of this book, as evidenced in the chapters that follow, is that law is part of the infrastructure in the e-Research environment in that it provides pathways for activity to occur – what we might call “law as cyberinfrastructure”. In looking at the law in this way we highlight the positive role law might play in sponsoring or enabling innovation in the e-Research world