

IRELAND

The year 2021 has seen a number of significant developments in Irish media law.

Online Safety and Media Regulation Bill (OSMR)

The Online Safety and Media Regulation Bill is currently at pre-legislative stage in the National Parliament. Once enacted, it will provide systemic regulation of online platforms and address harmful online content.

The OSMR will establish a Media Commission, tasked specifically with regulating online service activities, through binding online safety codes, to tackle the availability of harmful online content. Further, the OSMR will appoint an Online Safety Commissioner to oversee this new regulatory framework. The OSMR will possess tough sanction powers for non-compliance.

The OSMR will also transpose the revised Audiovisual Media Services Directive into domestic law, placing the regulation of on-demand video services on a direct statutory footing alongside television broadcasting services.

Reform of the Defamation Act 2009 (2009 Act)

Irish defamation law is often referred to as one of the most restrictive in Europe. The European Commission has previously expressed concern that Irish



defamation cases are too frequent and expensive to defend.

In 2021, the Irish government initiated its Justice Plan, which included a complete statutory review of the 2009 Act. The intention is to achieve a more balanced approach between freedom of expression, safeguarding reputation and access to justice.

A key reform being considered is the removal of juries from defamation trials based on evidence that juries tend to award disproportionately high

damages, inflating the settlement value of cases generally. Excessive damages awards can result in appeals, protracted litigation and increased legal costs for all parties involved.

Norwich Pharmacal Orders (NPO)

NPOs are becoming more prevalent in Ireland which is, in part, due to the fact that a number of the large social media platforms have established their European hubs in Dublin.

However, such relief is often difficult to obtain. Irish courts require a plaintiff to (i) provide strong prima facie evidence of wrongdoing, (ii) evidence of the respondent's sufficient involvement in the wrongdoing, (iii) show that disclosure of information from a third party is required to enable action against the respondent and, (iv) establish that an NPO is in the interests of justice.

In contrast, the English courts sometimes adopt a more flexible approach, accepting that proof of wrongdoing is not always a pre-condition to such relief.

Given the imminent publication of the OSMR and the potential reforms to the legislation governing Irish defamation claims, it appears likely there will be significant changes to the Irish media law landscape in 2022.

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