



LAWS584

Media Law

S1 Day 2019

Macquarie Law School

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General Information

Unit convenor and teaching staff

Unit Convenor

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Contact via email

TBA

For consultation times see iLearn

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Credit points

3

Prerequisites

(24cp in LAW or LAWS units) or (39cp at 100 level or above including MAS214)

Corequisites

LAW203 or (39cp including (ICOM304 or MAS302 or MAS330 or POL302))

Co-badged status

Unit description

While focusing on Australia, this unit takes an international and comparative perspective on key media issues. How do different countries decide who should control the media, as well as what they should and should not show? If we value free speech, how should we regulate material such as political debate, defamation, privacy, pornography, vilification and advertising? How do we hit the right balance between state media control and the right of individuals to free expression? We look at the day-to-day legal restrictions on the media and students get to experience what it is like to advise on media content.

Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

Learning Outcomes

On successful completion of this unit, you will be able to:

Apply key aspects of Australian media regulation to real or hypothetical situations.

Advise in relation to some typical legal problems encountered by journalists and media

outlets in Australia.

Through independent research and writing, compare at least one important facet of Australian media regulation with the approach adopted by one or more jurisdictions outside Australia.

Apply theoretical frameworks in order to evaluate Australian media regulation vis-a-vis that of a comparator jurisdiction.

Demonstrate advanced knowledge in the nature and importance of media and the underlying reasons why media requires regulation

Apply theoretical frameworks in order to evaluate the challenges of applying traditional media law to evolving media forms.

General Assessment Information

In order to pass this unit students must attain at least 50 marks garnered from the following:

1. mid-term online exam (worth 30 marks);
2. research assignment (worth 30 marks);
3. final online exam (worth 40 marks).

Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – two (2) marks out of 100 will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted more than seven (7) days (incl. weekends) after the original submission deadline. No late submissions will be accepted for the online mid-term exam and the online final exam.

Assessment Tasks

Name	Weighting	Hurdle	Due
Mid Term Exam	30%	No	19 April 2019
Research assignment	30%	No	11PM, 3 May 2019
Final online exam	40%	No	1- 6 pm, 14 June 2019

Mid Term Exam

Due: **19 April 2019**

Weighting: **30%**

This is a 3 hour online exam being offered at 1PM on 19 April 2019. Exam papers are due at 6PM. Late submissions will not be accepted. This has been designed as a 3 hour exam but you

are being 5 hours to equalise typing speeds. There are word limits for each question. Full instructions will appear with the exam.

The exam will consist of 2-3 hypothetical or essay type questions. Materials covered in the lectures and tutorials in Weeks 1 - 7 will be included in the exam.

On successful completion you will be able to:

- Apply key aspects of Australian media regulation to real or hypothetical situations.
- Advise in relation to some typical legal problems encountered by journalists and media outlets in Australia.
- Demonstrate advanced knowledge in the nature and importance of media and the underlying reasons why media requires regulation

Research assignment

Due: **11PM, 3 May 2019**

Weighting: **30%**

A key purpose of the research assignment is to develop and assess competencies in application of legal theory and coherent writing. Students will be required to submit (via Turnitin) a 2,500 word research paper by 11 pm, 3 May 2019.

While students may include independent research, it should be recognised that the materials provided in this course are quite comprehensive and that an excellent paper may be submitted without recourse to outside sources. The paper will require application of some of Marshall McLuhan's theories and free speech theory in light of regulation of traditional media with some consideration given to the challenges posed by the new media. This will entail understanding of how well media and free speech theory are supported by actual media regulation. The paper may also extend to how media law show be modified in light of emerging media forms. Emerging media not only includes social media but media forms of the future that may supersede social media.

Detailed instructions and advice relating to the research assignment, as well as a marking rubric, will be provided to students in Week 3. Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – two marks out of 100 will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted more than seven days (incl. weekends) after the original submission deadline.

On successful completion you will be able to:

- Through independent research and writing, compare at least one important facet of Australian media regulation with the approach adopted by one or more jurisdictions outside Australia.

- Apply theoretical frameworks in order to evaluate Australian media regulation vis-a-vis that of a comparator jurisdiction.
- Demonstrate advanced knowledge in the nature and importance of media and the underlying reasons why media requires regulation
- Apply theoretical frameworks in order to evaluate the challenges of applying traditional media law to evolving media forms.

Final online exam

Due: **1- 6 pm, 14 June 2019**

Weighting: **40%**

Students will complete a three-hour online exam that consists of 2-3 essay or hypothetical type questions. There will be word limits for each question. The exam will cover all material in the course but special emphasis will be placed on applying principles covered in the earlier weeks to new media situations that are encompassed in the latter weeks. The questions will be made available to students via iLearn at the start of the exam along with full instructions and students will be required to submit their answers online. The exam will not require attendance on campus or at any other specified venue. This is a timed assessment and no late submissions will be accepted.

Now, this exam was designed to be completed in 3 hours but you are actually being given 5 hours to complete it. This is being done because some of us are rather slow typists and this is not a speed typing test. Further, the additional time will allow for editing into a more polished work product.

On successful completion you will be able to:

- Apply key aspects of Australian media regulation to real or hypothetical situations.
- Through independent research and writing, compare at least one important facet of Australian media regulation with the approach adopted by one or more jurisdictions outside Australia.
- Apply theoretical frameworks in order to evaluate Australian media regulation vis-a-vis that of a comparator jurisdiction.
- Apply theoretical frameworks in order to evaluate the challenges of applying traditional media law to evolving media forms.

Delivery and Resources

Lectures

This unit consists of 13 weekly topics, as set out on the iLearn website. Rather than lectures being delivered 'live' in a theatre, recordings are available for download from iLearn (click under the 'Echo 360' logo). PowerPoint slides should accompany each lecture and are also available

from iLearn

Lectures are intended to give you an overview of the topic, indicate its most important aspects, make the related readings more interesting and accessible and, if necessary, update those readings.

Readings

The lectures should give you a broad overview of the subject, but it is essential to then develop your understanding by completing the related readings. Each week's readings are listed in the *Unit Schedule* below and in iLearn. Readings are drawn from the prescribed casebook *Media Law: cases, materials and commentary* (2d ed 2015, Oxford University Press) by David Rolph as well as book chapters and journal articles that are available on iLearn through the library Leganto system.

If you feel that you would like to buy a casebook in addition to the prescribed textbook then you are recommended the following:

- Patrick George et al, *Social Media and the Law* (2d ed 2017, LexisNexis)

Tutorials

Tutorials are an essential part of learning in this course. If you are not prepared to regularly attend tutorials, you should not be enrolled in this course. This is because the tutorials are not just general discussion forums but are, instead, the setting where we apply theory to actual applications - providing real insight to course assessments.

There will be 13 tutorials during the Session, starting in Week 1. With the exception of Weeks 1 and 13, tutorials generally lag behind the lectures by 1 week. All internal students should register in a tutorial group. Places are available on a first-come, first-served basis. You should attend the tutorial in which you are registered. However, if it proves difficult to do so then you may attend another tutorial without asking permission provided that space is available in the classroom.

Internal students are expected to attend tutorials weekly. Obviously circumstances may arise that are outside your control and occasionally preclude attendance (illness, etc). In that event, you should consult with your colleagues to learn what occurred.

If you do not attend tutorials, you will not face a formal penalty. Even so, the unit will be taught on the assumption that all internal students attend tutorials regularly, and unit material and assignments will be made accordingly. Students who choose to skip tutorials can expect to find studying the unit much harder, and they will almost certainly miss crucial information. For instance, questions of the type found in the assessments will frequently be discussed in class and answers will not always be made available to those who do not attend. Certainly students should not expect the convenor or tutor to accommodate non-attendance by providing information on what was said or done in class, or any other kind of additional material, guidance, etc.

Please try to be punctual arriving at a tutorial. They will start promptly at five minutes after their advertised commencement time and should end at least five minutes before their advertised finishing time (in order to provide time for students and staff to move from one class to another).

Tutorials only succeed if students actively participate. Tutorials are not meant to be simple rehashes of the lecture. In order to participate you need to adequately prepare for each tutorial. This means listening to the lecture, completing the readings and online activities and thinking about the issues covered before you arrive.

In tutorials, you will be asked to prepare case discussions in advance and we will often work in groups with group presentations on the whiteboard. You should also regularly contribute appropriately to discussions. This involves listening respectfully to what others say and responding courteously.

General discussion forum

Students are encouraged to contribute to these discussions, provided the general rules of etiquette are observed. The forums are intended for discussion relating to the issues we are studying.

Unit Schedule

General notes:

- Lectures are delivered only via iLearn. There are no 'live' lectures in this unit.
- 'Media Law refers to the prescribed textbook for the unit:
 - David Rolph et al, Media Law (2d ed, 2015, Oxford University Press), ISBN: 97801195598483
- **Unless indicated otherwise, other readings are available from Macquarie University library as a unit reading through Leganto**

Introduction

In this course, we will be toggling between media theory and traditional print and broadcast law with the goal of developing an understanding of how the law needs to deal with the new media.. Initially, we focus on the underlying theories of freedom of expression. This is essential because it tells us why speech should be free and why it may need to have some controls. All governments provide regulatory frameworks concerning speech. After acquiring some understanding about freedom of speech, we then delve into the nature of media - what is media? In 2019, it is essential that we not confine ourselves to traditional print and radio/television. The new online media, especially social media is becoming increasingly important and the law is not particularly adept at dealing with these new developments.

In the second major topic, we will take up the nature of media. This should not only help us to understand social media but hopefully will give some insights in the media that will invariably follow. Our intellectual guide will be Professor Marshall McLuhan, the Canadian professor who transformed our understanding of media itself in the 1960s and 1970s. While McLuhan is challenging to read (and that is being polite), he is also fun because he acknowledges that he is frequently contradictory and obscure. We will be updating McLuhan's original work with some more recent materials that show how his insights are more relevant today in the age of social media than they were in the 1960s when he was limited to radio and television.

Following our theoretical excursions into freedom of expression and the nature of media, we move back into traditional law and spend a number of weeks studying defamation law, privacy, and censorship. Then, with this background, we conclude the course with several weeks devoted to law of the internet and social media.

In this course, we will be using our theoretical framework developed in the first four weeks as an essential tool in analysing current laws and in understanding where the law should be going with respect to the new media. This course will be based on a problem solving approach.

Weekly Schedule

Week 1

Introduction to the Unit and Freedom of Expression - Why media law is important in a democracy and how online media is changing the face of media. We begin with our discussion of freedom of expression.

Media Law, Chapters. 1 - 2

Week 2

Freedom of Expression

Harry Melkonian, *Freedom of Speech and Society* (New York 2012, Cambria Press) Chapter 5

Eric Barendt, *Freedom of Speech* (2d ed 2005, Oxford University Press) Chapter 3

Week 3

The nature of Media

Eric McLuhan, *The Essential McLuhan* (basic Books 1996) Chapter 9

Marshall McLuhan, *Understanding Media: The Extensions of Man* (Gingko Books 2003) Chapter TBA

Week 4

Media in the Digital Age

Robert Logan, *Understanding New Media* (2d ed 2016, Peter Lang) Chapter TBA

Carol Madere, *Celebrity Media Effects* (Lexington Books 2018) Chapter 8

Week 5

Restraints on Freedom of Expression - Defamation Liability

Media Law, Chapter 7

Week 6

Restraints on Freedom of Expression - Defamation Defences

Media Law, Chapter 8

Week 7

Restraints on Freedom of Expression -

Defamation Remedies

Media Law, Chapter 9

Injurious Falsehood

Media Law, Chapter 10

Week 8

Restraints on Freedom of Expression - Privacy

Media Law, Chapters 13 - 14

Week 9

Restraints on Freedom of Expression

Privacy

Media Law, Chapter 15

Offensive Publications

Media Law, Chapter 16

Week 10

Restraints on Freedom of Expression - Censorship and Suppression

Media Law, Chapters 11 - 12

Week 11

Freedom of Information

Media Law, Chapter 17

Law of the Internet

Media Law, Chapter 5

Week 12

Online Content - Law of the Internet

Dan Jerker, B Svantesson, *Private International Law and the Internet* (3d ed Wolters Kluwer 2016) Chapter 2

Mike Godwin, *Cyber Rights: Defending Free Speech in the Digital Age* (Revised ed 2003 MIT Press) Chapter 6

Week 13

Online Content - Law of Social Media

Patrick George, *Social Media and the Law* (2d ed 2016 Lexis Nexis) Chapter 3

Daxton Stewart, *Social Media and the Law* (2d ed Routledge 2017) Chapter 1

Learning and Teaching Activities

Problem Solving Exercises

Exercises will be posted on iLearn for student presentations during tutorials. These will be group exercises followed by presentations to the class. The presentations will not be graded but are an opportunity to develop analytical skills and share learning with the class. Participation in the groups requires advance preparation.

Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central \(https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central\)](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- [Academic Appeals Policy](#)
- [Academic Integrity Policy](#)
- [Academic Progression Policy](#)
- [Assessment Policy](#)
- [Fitness to Practice Procedure](#)
- [Grade Appeal Policy](#)
- [Complaint Management Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#) (**Note:** *The Special Consideration Policy is effective from 4 December 2017 and replaces the Disruption to Studies Policy.*)

Undergraduate students seeking more policy resources can visit the [Student Policy Gateway \(https://students.mq.edu.au/support/study/student-policy-gateway\)](https://students.mq.edu.au/support/study/student-policy-gateway). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

If you would like to see all the policies relevant to Learning and Teaching visit [Policy Central \(https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central\)](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central).

Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: <https://students.mq.edu.au/study/getting-started/student-conduct>

Results

Results published on platform other than [eStudent](#), (eg. iLearn, Coursera etc.) or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit [ask.mq.edu.au](#) or if you are a Global MBA student contact globalmba.support@mq.edu.au

Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

Learning Skills

Learning Skills (mq.edu.au/learningskills) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

Student Services and Support

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

Student Enquiries

For all student enquiries, visit Student Connect at [ask.mq.edu.au](#)

If you are a Global MBA student contact globalmba.support@mq.edu.au

IT Help

For help with University computer systems and technology, visit http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/.

When using the University's IT, you must adhere to the [Acceptable Use of IT Resources Policy](#). The policy applies to all who connect to the MQ network including students.

Graduate Capabilities

Creative and Innovative

Our graduates will also be capable of creative thinking and of creating knowledge. They will be imaginative and open to experience and capable of innovation at work and in the community. We want them to be engaged in applying their critical, creative thinking.

This graduate capability is supported by:

Learning outcomes

- Apply theoretical frameworks in order to evaluate Australian media regulation vis-a-vis that of a comparator jurisdiction.
- Demonstrate advanced knowledge in the nature and importance of media and the underlying reasons why media requires regulation
- Apply theoretical frameworks in order to evaluate the challenges of applying traditional media law to evolving media forms.

Assessment task

- Research assignment

Capable of Professional and Personal Judgement and Initiative

We want our graduates to have emotional intelligence and sound interpersonal skills and to demonstrate discernment and common sense in their professional and personal judgement. They will exercise initiative as needed. They will be capable of risk assessment, and be able to handle ambiguity and complexity, enabling them to be adaptable in diverse and changing environments.

This graduate capability is supported by:

Learning outcome

- Advise in relation to some typical legal problems encountered by journalists and media outlets in Australia.

Assessment task

- Mid Term Exam

Commitment to Continuous Learning

Our graduates will have enquiring minds and a literate curiosity which will lead them to pursue knowledge for its own sake. They will continue to pursue learning in their careers and as they participate in the world. They will be capable of reflecting on their experiences and relationships with others and the environment, learning from them, and growing - personally, professionally and socially.

This graduate capability is supported by:

Learning outcomes

- Demonstrate advanced knowledge in the nature and importance of media and the underlying reasons why media requires regulation
- Apply theoretical frameworks in order to evaluate the challenges of applying traditional media law to evolving media forms.

Discipline Specific Knowledge and Skills

Our graduates will take with them the intellectual development, depth and breadth of knowledge, scholarly understanding, and specific subject content in their chosen fields to make them competent and confident in their subject or profession. They will be able to demonstrate, where relevant, professional technical competence and meet professional standards. They will be able to articulate the structure of knowledge of their discipline, be able to adapt discipline-specific knowledge to novel situations, and be able to contribute from their discipline to inter-disciplinary solutions to problems.

This graduate capability is supported by:

Learning outcomes

- Apply key aspects of Australian media regulation to real or hypothetical situations.
- Advise in relation to some typical legal problems encountered by journalists and media outlets in Australia.

Assessment tasks

- Mid Term Exam
- Research assignment
- Final online exam

Critical, Analytical and Integrative Thinking

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate and synthesise learning and knowledge from a range of sources and environments; to be able to critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:

Learning outcomes

- Advise in relation to some typical legal problems encountered by journalists and media outlets in Australia.
- Through independent research and writing, compare at least one important facet of Australian media regulation with the approach adopted by one or more jurisdictions outside Australia.
- Apply theoretical frameworks in order to evaluate Australian media regulation vis-a-vis that of a comparator jurisdiction.
- Demonstrate advanced knowledge in the nature and importance of media and the underlying reasons why media requires regulation
- Apply theoretical frameworks in order to evaluate the challenges of applying traditional

media law to evolving media forms.

Assessment tasks

- Research assignment
- Final online exam

Learning and teaching activities

- Exercises will be posted on iLearn for student presentations during tutorials. These will be group exercises followed by presentations to the class. The presentations will not be graded but are an opportunity to develop analytical skills and share learning with the class. Participation in the groups requires advance preparation.

Problem Solving and Research Capability

Our graduates should be capable of researching; of analysing, and interpreting and assessing data and information in various forms; of drawing connections across fields of knowledge; and they should be able to relate their knowledge to complex situations at work or in the world, in order to diagnose and solve problems. We want them to have the confidence to take the initiative in doing so, within an awareness of their own limitations.

This graduate capability is supported by:

Learning outcomes

- Apply key aspects of Australian media regulation to real or hypothetical situations.
- Advise in relation to some typical legal problems encountered by journalists and media outlets in Australia.
- Through independent research and writing, compare at least one important facet of Australian media regulation with the approach adopted by one or more jurisdictions outside Australia.
- Apply theoretical frameworks in order to evaluate Australian media regulation vis-a-vis that of a comparator jurisdiction.
- Apply theoretical frameworks in order to evaluate the challenges of applying traditional media law to evolving media forms.

Assessment tasks

- Mid Term Exam
- Research assignment
- Final online exam

Learning and teaching activities

- Exercises will be posted on iLearn for student presentations during tutorials. These will

be group exercises followed by presentations to the class. The presentations will not be graded but are an opportunity to develop analytical skills and share learning with the class. Participation in the groups requires advance preparation.

Effective Communication

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication technologies as appropriate.

This graduate capability is supported by:

Learning outcomes

- Through independent research and writing, compare at least one important facet of Australian media regulation with the approach adopted by one or more jurisdictions outside Australia.
- Apply theoretical frameworks in order to evaluate Australian media regulation vis-a-vis that of a comparator jurisdiction.
- Apply theoretical frameworks in order to evaluate the challenges of applying traditional media law to evolving media forms.

Assessment tasks

- Mid Term Exam
- Research assignment
- Final online exam

Learning and teaching activities

- Exercises will be posted on iLearn for student presentations during tutorials. These will be group exercises followed by presentations to the class. The presentations will not be graded but are an opportunity to develop analytical skills and share learning with the class. Participation in the groups requires advance preparation.

Engaged and Ethical Local and Global citizens

As local citizens our graduates will be aware of indigenous perspectives and of the nation's historical context. They will be engaged with the challenges of contemporary society and with knowledge and ideas. We want our graduates to have respect for diversity, to be open-minded, sensitive to others and inclusive, and to be open to other cultures and perspectives: they should have a level of cultural literacy. Our graduates should be aware of disadvantage and social justice, and be willing to participate to help create a wiser and better society.

This graduate capability is supported by:

Learning outcomes

- Apply theoretical frameworks in order to evaluate Australian media regulation vis-a-vis that of a comparator jurisdiction.
- Demonstrate advanced knowledge in the nature and importance of media and the underlying reasons why media requires regulation
- Apply theoretical frameworks in order to evaluate the challenges of applying traditional media law to evolving media forms.

Assessment tasks

- Research assignment
- Final online exam

Learning and teaching activities

- Exercises will be posted on iLearn for student presentations during tutorials. These will be group exercises followed by presentations to the class. The presentations will not be graded but are an opportunity to develop analytical skills and share learning with the class. Participation in the groups requires advance preparation.

Socially and Environmentally Active and Responsible

We want our graduates to be aware of and have respect for self and others; to be able to work with others as a leader and a team player; to have a sense of connectedness with others and country; and to have a sense of mutual obligation. Our graduates should be informed and active participants in moving society towards sustainability.

This graduate capability is supported by:

Learning outcome

- Demonstrate advanced knowledge in the nature and importance of media and the underlying reasons why media requires regulation

Assessment task

- Final online exam

Learning and teaching activity

- Exercises will be posted on iLearn for student presentations during tutorials. These will be group exercises followed by presentations to the class. The presentations will not be graded but are an opportunity to develop analytical skills and share learning with the class. Participation in the groups requires advance preparation.

Changes from Previous Offering

The following changes are being made from the 2018 offering:

1. The prescribed casebook has been changed, In 2019, we are using *Media Law* (2d ed 2015) by David Rolph. We are also using various materials relating to free speech theory and the nature of media - particularly focusing on the new media: online and social media are a special emphasis in 2019. The additional reading materials will be available online through Leganto. The materials available through the library online resource are essential to this course.
2. In 2019, we will augment traditional media with in-depth studies of new media; most particularly social media. Further, and most importantly, we will devote considerable attention to free speech theory and the nature and meaning of media to help understand the changing face of media. This will require some challenging forays into the theories espoused by Canadian Professor Marshall McLuhan in the 1960s and 1970s - which seem to have special meaning with respect to the new media. The offering will also expand on free speech theory as applied to the new media. Our goal is to enable us to deal with the changing face of media.
3. Assessments in 2019 will follow a new format. There will not be any quizzes. Instead, there will be a mid-term online exam, a research paper, and a final exam that is also delivered online. All of the exam questions will be in the form of essays and hypothetical situations.