Law in the Information Age 2.0
GENL 0231/ LAWS 3431
Summer 2012-13
V1

Statement of objectives and assessment

[GENL 0230 was an earlier 3 unit course, now no longer offered. GENL 0231 is the new 6 unit course extending coverage into the realm of recent Web 2.0 and 3.0 interactive developments. It has 3 hour classes. Elements specific to new GENL 0231 topics are noted below.

GENL 0230 is not a prerequisite for GENL 0231: they were offered and taught concurrently last year only. The "2.0" in the course title refers to the social networking and other new content of the expanded course, and does not imply you must do the 0230 version first.]

Welcome to Law in the Information Age 2.0.

These subjects are convened by David Vaile of the Cyberspace Law and Policy Centre. For all course administration and assessment matters, please contact David:

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Subject outline

The last two decades have seen a massive change in the way people receive and communicate information. In the last decade, we have seen traditional media such as newspapers being delivered online, television opened up to multiple pay TV channels and the arrival of digital broadcasting. Telephone lines, cables and wireless devices using the radiofrequency spectrum are now our link to global information networks through email and the internet, with individuals and businesses increasingly using them as personal and commercial communications tools.

More recently, user generated content and social networking services, and other tools dubbed Web 2.0, have partly removed the need for central editorial and production, and democratised access to global publication.

These new technologies have thrown up new issues for the organisations who provide these services – broadcasters, telecommunications companies and internet providers – and the consumers who use them. Existing laws have had to adapt and new laws have been developed to deal with the challenges raised.

This subject will give students a broad overview of the operation of new media and communications under Australian law, examining both the legal requirements and the policy reasoning behind the way in which media and communications are regulated.

On completion of this course, students will have a good understanding of the interaction between the different parts of the media and communications industries, current issues and how the law applies. They will gain practical insights into the way the law affects people in their dealings with the media, on the internet and in e-commerce.

Course requirements

This outline and the course requirements will be discussed in the first class. This outline will provide the basis for the conduct of the subject and will be the foundation document for resolving any disputes.

Teaching method and student input

Classes will be run as a mixture of lectures and discussion.

Students are expected to contribute constructively to classes on the basis of the subject materials and topical matters from current debates. Classes will cover the law, as well as addressing technology, social policy, commercial power and political pragmatics. The lectures will directly relate to, but expand upon, the subject materials.

One of the features of this area of the law is its rapid change. This and the fact that it deals with often controversial and sensitive issues of public policy mean that students will need to think about the context and be able to apply legal principles to practical situations.

The course does not assume prior knowledge of legal principles but does assume a general familiarity with the media and new technologies. Students will be expected to develop a good understanding of the legal issues and frameworks in these areas and to be able to identify what legal issues apply to different situations.

Class attendance

The Law Faculty applies the "80% Rule" which means that students who attend less than 80% of classes may be refused final assessment. Rolls will be completed throughout the course as a record of attendance.

Class attendance is also essential to understanding the course material, as each lecture covers a lot of ground in a fairly complex area.

Course commitment

The courses are taught in intensive mode. GENL0231 is 6 unit general education subject. The overall time commitment expected is the same as similar subjects taught in normal mode over a semester.

Students are expected to commit at least 100 hours to the subject, including lectures. This will involve 30 hours of lecture time and at least:

- 10 hours class preparation time;
- 20 hours completing the email diary report; and
- 30 hours completing the research essay.
- 10 hours documenting a recent case study, using an online resources such as Wikipedia or similar User Generated Content service, at an appropriate level of accuracy etc.

Assessment

Assessment will be made up of:

1. **Media diary**: legal issues about media, communications or online services (30%)

2A. **Research essay** 2500–4000 words inc. annotated bibliography on set topics available during class, or one of your choice, by prior arrangement (60%)

      OR

2B. **Contribution to an online service** (optional alternative): highest standard substantially new item on a recent Web 2.0 issue, case or narrow topic (60%)

3. **Class participation**: (10%) Largely for full attendance and engagement, with recognition for excellent preparation and helpful participation.

FIRST ASSESSMENT ITEM   *– start early!*

1. Media Diary (30%)

Students are required to keep a diary of how **legal issues associated with the media, telecommunications, and Internet and online services including e-commerce** are reported in the media over roughly one week and, at the end of the week, do a short summary interpreting those issues. This task requires students to identify legal issues (relevant to this course) in a news and current affairs context, and explain their impact.

Task: from **Monday 10 December to Monday 17 December**, you must:

- read at least one local metropolitan or national daily newspaper
  (*Sydney Morning Herald*, *Daily Telegraph*, *Australian*, *Australian Financial Review*);
  AND
- follow news broadcasts on radio and television;
  AND
- monitor Australian internet news services.

- Your diary will be a mix of reports from these various sources, but it must include *at least one report from **each** of these three categories*.

- You must have at least one report for **five** days of the period under review.

- You are required to identify items dealing with the **legal and legal policy issues** concerning the media, communications and online services, some of which will be directly covered in this course.

Your report must include the following:

A. *10 Individual diary entries:*
    - **name** of the publication, program, or online news service (eg the *Sydney Morning Herald, National Nine News,* or News.com.au)
    - **date** of the article or broadcast and where relevant, **the time** of the broadcast, the **headline** and **page number** of the article, or the **full URL** for the online report;
    - **short summary** describing the legal issue covered in the article or broadcast.

B. *News round-up*

    The diary must conclude with a "news round-up." For each of **three** of the major legal issues you have tracked, write a summary for an imaginary news website, with the

objective of giving readers a nutshell view of what has happened on that issue that week. You are expected to piece together what you have learnt about the issue from various sources throughout the week.

You must submit **10 diary entries.** Since you only have to submit this number of entries in total, you might not need to record every report on that issue during the week: write up the best reports that deal with the legal issues, so that you have 10 reports in total.

Ideally, in your news round-up at the end of the week, you should report on three separate issues. If you have more than 3 issues, choose three which cover legal issues the best.

Tracking the progress of an issue throughout the week will help you to provide a more sophisticated analysis in your round-up. However, do not include multiple reports on the same issue unless they show a different angle, a different way of reporting, or new developments. For example, a story on digital television might be reported differently on ABC radio and in a daily newspaper, or in the *Sydney Morning Herald* compared to the *Australian*.

- Each diary entry should be around 125 words.
- The round up should be between 250 and 400 words.
- Total length (excluding headings, eg date, publication etc) should be around 1500 words.

  Remember that this course is interested in **legal issues**: so a report on business or technology aspects only (eg, 'Orange expects that a new generation of video phones scheduled for later in the year will be half the size of current handsets' / 'Online shopping at Harvey Norman over the Christmas sales period was up on last year') does not meet the requirements of your assessment.

You will be assessed on your familiarity of the media (eg range and choice of sources), understanding of the law, interpretation of the issue and quality of writing. See the assessment guide on the sample marking sheet below.

Deadline: 5 pm on **Tuesday 18 December**
Maximum length: 1500 words
Submit to: Law office, Level 2, Law building F8, use cover sheet there or online

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SAMPLE DIARY ENTRY

Source: **Sydney Morning Herald (online)**
Date: **12.02.12**
Location: **<http://.smh.com.au/articles/2012/02/11/1044927596048.html>**
Title: **"Clip snip cuts heat out of steamy video"**
Author: **Chris Sams**

This article concerns the censorship of the video clip for *All The Things She Said* by TaTu before it screened on *Video Hits* last Saturday. It refers to the controversy surrounding extended kissing scenes involving two teenage girls.

Making the clip suitable for a younger audience would have been done in order to comply with the regulatory framework for classification of programs on commercial television. The clip would have raised problems for the network because on weekends almost the whole day is restricted to G programs.

The Commercial Television Code states that the frequency and intensity of elements such as sexual behaviour are relevant to the classification. In the G classification depictions and references to sexual behaviour must be strictly limited with little or no detail and there is no provision for adult themes. The extended kissing scenes in the context of the overall "erotic image" therefore led Channel Ten to edit the clip.

SECOND ASSESSMENT ITEM

2A. Research essay – Legal issues for the Information Age (60%)

This is a research project requiring students to investigate and analyse a significant legal issue in the Information Age. A list of essay topics will be provided in the first class. Students can choose an alternative topic provided that the topic is submitted in writing and is agreed with the course convenor by Thursday 9 December.

(Note that this counts for one of the following, depending on which course you are doing, and whether you are doing the optional online contribution:

- 60% – 4,000 words inc. annotated bibliography*

When undertaking research it is important to remember that due to the fast changing nature of the subject matter, and normal legal processes, cases and articles from even a year or two ago may sometimes be out of date. It is important to keep an eye on current developments when considering the legal issues raised in this course.

Consider using AustLII's LawCite or LexisNexis CaseBase or Thomson Firstpoint (latter two via Sirius) to Noteup any past case to check whether there are new cases which refer to it, or ever overturn it on appeal.

Maximum length: 4,000 if *not* doing online contribution

Deadline: Friday 4 January (subject to confirmation in class)

Annotated bibliography means the normal full bibliographic citation information; plus a very short commentary, say 1-2 sentences at end of each item, noting the scope, focus or interesting aspects of the item for the purposes of research on your topic.

NOTE: Students graduating early may require final assessment to be submitted on a date prior to result deadlines. As graduation dates vary, you will need to check with your faculty as to what the earlier deadline is and you **must** discuss this with the course convenor prior to the end of the lecture period.

You will be assessed on:

- your understanding of the law; the policy or practical context;
- quality and originality of ideas;
- evidence of reading beyond the course materials
  (not just inclusion of references in a bibliography);
- quality of writing and presentation – organisation, argument, economy,
- writing basics, including grammar, punctuation, spelling and clear expression. Use all your available checking tools prior to submission - imagine it is a manuscript for publication.
- consistency, completeness and proper use of referencing and citation, including either footnotes or in text citations (footnotes preferred but not essential) and References list at end. NB: *All* significant assertions that you have sourced from somewhere need to have their source cited.

  Note that mere URLs are not a proper bibliographic reference. You need in particular (depending on the document type) author, date actually written or published, title of the document, title of the publication as a whole, publisher, and citation (if a case or journal article etc.).

  If a key element is unknown, you may need to indicate this: "(undated", "(author not identified)" etc. depending on whether this reference element is a core item for that type of publication. For instance, cases and legislation typically do not have authors - see *Australian Guide to Legal Citation* from MULR for proper form.

ALTERNATE ASSESSMENT ITEM   (optional)

2B. Contribution to online resource or similar 'user generated' service (Wikipedia?) – Recent developments in communications and information law (60%)

This is a research project requiring students to consider recent events and developments since those documented in the course materials. The nature of the item is a contribution describing for instance a particular case, piece of legislation or specific policy debate in narrow terms, submitted to an online resource such as Wikipedia, or similar UGC host.

Students must propose a topic provided and submit in writing for approval by the course convenor by **Thursday 13 December**.

Your proposal must identify the case, law or policy topic, and the relevant materials below.

Submit the request with:

- a short title specifying the precise and narrow scope of the proposed topic (the narrower the better, not a broad summary; also check it is not already done!)
- a one sentence description explaining the scope of the proposed topic
- a reference, with URL, for the full text of the case, law or law reform report (or similar) you will be creating the item about,
- a reference to a short commentary article from a suitable expert, to demonstrate you have looked for an overview already
- the online service you propose to submit to (Name, jurisdiction and URL)
- an explanation of the nature of the submission (including a link to the policy of the service setting out the requirements for the highest quality submission.)
- confirmation you have searched already and there is either no entry on your topic; or there is one identical or very similar - if so, give title - but it is minimalist, incomplete and would benefit from thorough upgrade.
- A summary of the requirements for the highest standard of entry, such as Wikipedia's Feature Article, including the criteria for inclusion in that status.

The obvious service is Wikipedia, and its Featured Article model (not just an ordinary article) but there may be others which are suitable.

Maximum length: 1500 words on paper - note you must cite sources and write your material, not just copy from WIkiPedia!
The online version, the actual content, should be the appropriate length for the highest, most complete standard of entry.
Deadline: Wed 19 December 2013 - online submission (subject to confirmation in class).

You will be assessed on:

- your understanding of the law
- understanding of the policy or practical context;
- quality and originality of ideas;
- evidence of understanding of the significance of the topic;
- quality of writing and presentation – organisation, argument, economy,
- the basics including grammar, punctuation, spelling and clear expression.

GENL 0231 LAW IN THE INFORMATION AGE 2.0

ASSESSMENT SHEET

Student Name: _____

Student Number: _____

Diary Mark: _____

Essay/Online Mark: _____

Participation _____

TOTAL MARK: _____

BREAKDOWN OF MARKS - **MEDIA DIARY**

Familiarity with media: range of sources/ intelligence of choice /10	Identifying, understanding, and explaining the legal issues /10	Explanation of issues in News Round-Up /5	Presentation and quality of writing /5	Total Mark /30

RESEARCH ESSAY

Accurately stating law/ policy, and general understanding and analysis of the issues		Original ideas, arrangement and presentation of material, quality of writing	Selection and use of resources	Total Mark
Law /20	Issues /20	/10	/10	/60

Or **ONLINE CONTRIBUTION** (alternate)

Compliance with requirements for properly sourced commentary /20	Identifying, understanding, and explaining the legal issues /20	Clear expression /10	Presentation and quality of writing /10	Total Mark /60

CLASS PARTICIPATION

	Total /10

Resources

Note: The printed materials and books only cover the more traditional legal approach to communications and online regulation. For the Web 2.0 and other new parts of the course about current and future developments, the concepts, materials and commentary are fluid and go out of date quickly, so you typically find these aspects from online sources using suggestions by lecturers, references in other sources, by your own research, or by subscription to expert mailing lists or RSS.

For this reason, the paper materials should be considered an essential foundation, to be supplemented with online content found from these methods for the newer developments.

The **prescribed materials** for the course are:

- The course materials package compiled and available at UNSW Bookshop

- the textbook: Carvan, J *Understanding the Australian Legal System* Thomson Lawbook Co, 6th ed, 2010. ISBN 9780455227085, OR
- Richard Chisholm, Garth Nettheim, *Understanding law: an introduction to Australia's legal system*, 7th ed., Sydney : LexisNexis Butterworths, 2007. 213 pp., ISBN 9780409323467, OR
- Any similar introduction to the legal system in Australia for non-lawyers.

Useful but not compulsory texts:

Covering **media regulation**:
- Beattie and Beal, *Connect and Converge*: *Australian Media and Communications Law,* Oxford UP, Sydney 2006 or more recent edition if available
- Butler and Rodrick, *Australian Media Law*, LBC Information Services, 2nd ed, 2004.
- David Rolph, Matt Vitins, Judith Bannister, *Media Law: Cases & Commentary,* Oxford UP, 2010

Covering **telecommunications, e-commerce and Internet regulation**:
- Yee Fen Lim, *Cyberspace Law: Commentaries and Materials*, 2nd ed, Oxford UP, Sydney 2007 or more recent edition if available
- Alasdair Grant (ed), *Australian Telecommunications Regulation: the Communications Law Centre Guide*, 3rd edition, UNSW Press, Sydney 2004 (new edition late 2011).
- Alan Davidson, *The Law of Electronic Commerce*, Cambridge UP, 2009 (Reprinted 2012)

The introduction to each lecture in these materials contains a list of prescribed and additional references. The prescribed references are in this folder. Additional references may be available in the UNSW Library, although the closure for renovations of the Law Library may restrict access to some items. Online alternatives will usually be adequate. Additional items will be linked from the course page, typically the timetable slot where the material is provided by a guest speaker.

Legislation

The course will refer to a range of legislation, which is accessible at AustLII <http://www.austlii.edu.au/>, the government legislation site for each jurisdiction (eg ComLaw or Legislation NSW) or LexisNexis AU, and available in the library.

General

A useful loose-leaf service covering media and communications issues in Australia is the loose-leaf service *Media and Internet Law and Practice Online* published by LawBook Co and available under the 'M-Z' button under Commentary in Firstpoint or Legal Online on the WestLaw AU (post 2012) or Thomson AU (up to end 2012) sources via Sirius.

See also the commentary service *Law of eCommerce*, published by LexisNexis AU, and available under the Browse tab of Commentary in LexisNexis AU on Sirius. It is edited by Cyberspace Law and Policy Centre associate Adrian Lawrence.

Useful journals include:

- *ACMASphere*, published monthly, the newsletter of the Australian Broadcasting Authority, now ACMA <`http://www.acma.gov.au/WEB/STANDARD/pc=PC_9030`>. (until late 2011 - now see *Engage* at `http://engage.acma.gov.au`/)
- *Communications Law Bulletin,* published quarterly by the Communications and Media Law Association, available via eJournals on Sirius.
- *Computers and the Law*, published quarterly, the journal of the Australian and New Zealand Societies for Computers and the Law, available in Law Library at LQ/ K1/C776.2
- *Entertainment Law Review*, published by Sweet and Maxwell Ltd, London (8 issues per year), online via Oxford, available via Sirius through Westlaw International.
- *Exchange*, telecommunications update published fortnightly by 3rd Wave Communications
- *Intellectual Property Reporter,* published by IBC
- *Internet Law Bulletin* published by Prospect Media (10 issues per year), LQ/ K1/I730 in Law Library, soon to have online access.
- *Media International Australia*, published quarterly by the University of Queensland, School of Journalism and Communication, library online ref [1329-878X], available via Sirius from Informit's Literature and Cultural Collection.
- *Telecommunications Journal of Australia*, published quarterly, the journal of the Telecommunications Society of Australia, available online via Sirius under e-Jounrals.

Online media include:

- Fairfax Digital <`http://www.fairfax.com.au`/> see also SMH and Age
- News Limited <`http://www.news.com.au`/>   (some parts require subscription)
- ABC <`http://www.abc.net.au`/>
- Ninemsn <`http://www.ninemsn.com.au`/>
- ZDNet <`http://www.zdnet.com.au`/>
- Crikey <http://www.crikey.com.au/> (some parts require subscription)
- *Australian Financial Review* <http://www.afr.com/> (some parts require subscription)

Discussion of current Information Age issues can be found in newspapers such as

- *Australian Financial Review (*especially the IT section on Tuesday)
- *Sydney Morning Herald* (especially the Technology section online)
- *The Australian* (especially the IT section on Tuesday and the Media/Marketing supplement on Thursday).

Transcripts of the Radio National programs, "The Media Report" and some episodes of others like "the Law Report", "Background Briefing" and "Future Tense" are relevant and available at <`http://www.abc.net.au`/>.

Government sites include:

- Australian Government Information Management Office, <`http://www.agimo.gov.au/`>
- Australian Communications and Media Authority [formerly ABA, ACA], <`http://www.acma.gov.au/`>
- Classification Board [formerly the Office of Film and Literature Classification], <`http://www.classification.gov.au/`>
- Dept of Broadband, Communication and Digital Economy, formerly NOIE, <`http://www.dbcde.gov.au/`>

Online user generated content services including:
- <`http://www.Whirlpool.net.au/`> (online services and technology, ISPs)
- LINK mailing list, at ANU

- Wikipedia, including Featured Article standard

While proper legal citation is not essential, a standard guide can be found at: Melbourne University Law Review Association, *Australian Guide to Legal Citation*, (AGLC) 3rd ed, Melbourne, MULRA (2010) <http://mulr.law.unimelb.edu.au/go/AGLC3/> [PDF]

Additional sources will be mentioned in lectures.

Library

Course references are available in or through the UNSW Law Library.

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(with thanks to Derek Wilding, former director, Communications Law Centre at UNSW for the original versions of this material.)