Fall 2019

COM 361: Mass Media Law, Policy & Ethics

School of Communication, Illinois State University

Section One: 9:35-10:50am (Fell 176), Section Two: 11am-12:15pm (Fell 148), Tue/Thu

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Office Hours: Fell 428 / Tuesdays and Thursdays 1-2pm, or by appointment

**Course Description:**

This course provides a foundation of understanding for communication students on media law and policy with an additional focus on the ethical commitments that shape the law and inform the norms, codes, and policies adopted by the mass media professional community. This class will cover a wide range of statutes, policy, and case law affecting media operations along with ethical guidelines for practitioners and industry self-regulation guidelines. Throughout the course, you will gain a basic understanding of the American legal system and its institutions; a broad understanding of First Amendment principles as they relate to the communication industry; a practical knowledge of the laws that directly restrict or enhance information gathering, civic engagement, and message dissemination in mass media; and philosophical approaches to guide ethical media decision-making.

More importantly, this class explores mass media law as a complex set of statutes, policies, and regulations that all seek to manage a fundamental tension between the right to free expression that is fundamental to a functioning democracy and the commercial imperatives of the mass media marketplace. How do mass media professionals balance their civic commitments to facilitating communication and disseminating valuable news, ideas, and expressions through print, broadcasting, and digital platforms while also operating in a marketplace driven by advertising, profit, and engagement? By analyzing mass media law and policy within the context of a constantly changing media marketplace, we might better understand the law not as simply the embodiment of foundational values but rather as something that is ever-changing in response to new technologies, political realities, and economic demands.

**The learning objectives for this course are:**

* To understand the First Amendment and its foundational role in American media law.
* To grasp how current laws and regulations developed historically through courts, legislative bodies, and administrative agencies and in response to changing cultural, technological, and economic circumstances.
* To explain the theories, principles, and ethical commitments behind relevant communication law decisions.
* To identify the free expression rights of professional communicators and the limits on those rights.
* To write professionally and independently apply critical thinking skills to examine significant media law issues.
* To create a productive, respectful, exciting, creative and enjoyable learning environment and intellectual community.

**On completion of this course, students should be able to:**

* Demonstrate a wide range of knowledge of American mass media law and policy.
* Explain and analyze the ethical commitments and rationales for American mass media law, particularly as they relate to complex and messy real-life cases.
* Produce professional, thoughtful, and informed arguments about mass media law.

**Required Text**

*Communications Law: Liberties, Restraints, and the Modern Media* (Wadsworth Series in Mass Communication and Journalism) [Paperback], **6th edition, 2010**

**ISBN-10:** 0495794171 or **ISBN-13:** 978-0495794172

Additional readings will be available electronically on ReggieNet or are available via a link listed below. You are expected to have done the readings done before the start of each class.

**Coursework**

**Quizzes and Free-Writing:** Some classes will start with a 5-minute ‘free-writing’ session (responding to a prompt that I will provide that links to our class reading or past lectures). Other classes will conclude with a short 5-question quiz, covering the assigned reading and in-class lecture. Each quiz is worth 10 points. A quiz cannot be made up if class is missed that day. Six quizzes are taken, ten will be counted with either the lowest score dropped or making up for a missed class. (50 points)

**Midterm and Final Exam:** There will be a closed-book mid-term exam and final exam. They will be conducted in class. They are each worth 100 points.

**Short Writing Assignment on Case Study or Documentary:** You have one short (2-3 pages) assignment applying what you have learned from your readings and in class to outside materials of your choosing. The assignment can involve analysis of either an underexplored case in mass media law or a documentary focused on a topic discussed in this course. This assignment is worth 50 points.

**Final Research Paper and Two-Slide/Poster Presentation:** Your final project will explore a topic in mass media law and policy in depth. This project will result in a final (7-10 page paper) and an oral presentation accompanied by two slides. This project will be worth 150 points (100 points for the paper and 50 points for the presentation). If you have any concerns about your ability to meet the requirements of this course, please come and see me to discuss your concerns.

**Grade Breakdown**

100 points – Quizzes and Free-Writing (20%)

100 points – Mid-term Exam (20%)

50 points – Short Writing Assignment (10%)

100 points – Final Exam (20%)

150 points – Final Research Project [Research paper and Presentation] (30%)

Total: 500 points

**Course Policies**

**Attendance and Participation:** This course relies on active and prepared discussion from all of us. Your attendance is essential for your own success as well as for the contributions you will make with your fellow students. When in class, be engaged with the discussion. Turn off your cell phones. Laptops are to be used for note-taking only.

While I will not be formally taking attendance in class, your attendance is indirectly noted through the frequent free-writing assignments and quizzes held throughout the class. These assignments will only be conducted in class, so non-attendance will result in NO points earned for that activity.

**Student E-Mail:** Students will be expected to have a working e-mail account and to regularly log into ReggieNet. Weekly course information will be available to all students via ReggieNet so it is essential that your account is current and that you access it regularly. Inability to use or have access to ReggieNet may compromise your success in this class.

**Assignment Due Dates:** Deadlines are firm and non-negotiable as they would be in the professional world. Clear deadlines are essential to the fair treatment of students who do complete assignments on time. Assignments are happily accepted early.

**Academic Integrity:** Students are expected to be honest in all academic work. A student’s placement of his or her name on any academic exercise shall be regarded as assurance that the work is the result of the student’s own thought, effort, and study. Students who have questions regarding issues of academic dishonesty should refer to the University regulation that outlines unacceptable behaviors in academic matters. It is the student and faculty’s responsibility to uphold the principles of Academic Integrity. Academic Integrity is an important part of this University and this course. Academic Integrity is required of you the student and myself as the instructor. Academic Integrity should be used in preparation of this course, in class time, regarding exams, and with regard to written assignments. In certain circumstances (such as cheating or plagiarism) faculty may be required to refer a student(s) to Community Rights & Responsibilities for a violation of Illinois State University’s Code of Student Conduct (Quoted from “Community Rights and Responsibilities at Illinois State University”).

**Absences due to Student Bereavement**: Students who experience the death of an immediate family member or relative as defined in the University Student Bereavement Policy will be excused from class for funeral leave, subsequent bereavement, and/or travel considerations. Students are responsible for providing appropriate documentation to the Dean of Students office and for contacting the instructor as soon as possible to make arrangements for completing missed work. More information is available in the Student Bereavement Policy at <http://policy.illinoisstate.edu/students/2-1-27.shtml>

**Student Access and Accommodation Services**: Any student needing to arrange a reasonable accommodation for a documented disability and/or medical/mental health condition should contact Student Access and Accommodation Services at 350 Fell Hall, (309) 438-5853, or visit the website: [www.StudentAccess.IllinoisState.edu](http://www.StudentAccess.IllinoisState.edu)

**Mental Health Resources:** Life at college can get very complicated. Students sometimes feel overwhelmed, lost, experience anxiety or depression, struggle with relationship difficulties or diminished self-esteem. However, many of these issues can be effectively addressed with a little help. Student Counseling Services (SCS) helps students cope with difficult emotions and life stressors. Student Counseling Services is staffed by experienced, professional psychologists and counselors, who are attuned to the needs of college students. The services are FREE and completely confidential. Find out more at [www.Counseling.IllinoisState.edu](http://www.Counseling.IllinoisState.edu) or by calling (309) 438-3655.

**Campus Safety and Security:** Illinois State University is committed to maintaining a safe environment for the University community. Please take a few moments to make sure you are signed up for ISU Emergency Alerts at [www.security.illinoisstate.edu/emergency\_alert](http://www.security.illinoisstate.edu/emergency_alert). Also, note the information posted in each classroom about emergency shelters and evacuation assembly areas (both are indicated on stickers inside every classroom). Additional safety information is available on the Campus Safety and Security website, [www.security.illinoisstate.edu](http://www.security.illinoisstate.edu).

**Important Dates**

**October 15:** Midterm Exam

**October 31:** Short Writing Assignment Due

**December 3:** Final Paper and Presentations

**TBD:** Final Exam

**Course Schedule**

**Week 1: Introduction and the Importance of Media Law and Policy Education**

T (8.20): Syllabus

TH (8.22): Ugland, “Expanding Media Law and Policy Education,” *Communication Law and*

*Policy* (2019).

Thomas Hess, “What is a Media Company? A Reconceptualization for the Online World,” *International Journal of Media Management* (2014).

Optional: Zelezny, “Ch. 1 The U.S. Legal System,” (1-25).

**Part 1: Foundations of Media Law**

**Week 2: Free Speech Part 1 (The First Amendment and its Limits)**

T (8.27): Zelezny, “Ch. 2: The First Amendment,” (34-69).

TH (8.29): Zelezny, “Ch. 3: Risks to Public Safety,” (86-115).

Watch: *The Most Dangerous Man in America: Daniel Ellsberg and the Pentagon Papers* (2009) [excerpts].

**Week 3: Free Speech Part 2 (There is No Free Speech?)**

T (9.3): Zelezny, “Special Problems: University Press and Corporate Speech,” (69-85).

Andrew Marantz, “[How Social Media Trolls Turned U.C. Berkeley into a Free-](https://www.newyorker.com/magazine/2018/07/02/how-social-media-trolls-turned-uc-berkeley-into-a-free-speech-circus)

[Speech Circus](https://www.newyorker.com/magazine/2018/07/02/how-social-media-trolls-turned-uc-berkeley-into-a-free-speech-circus),” *The New Yorker* (June 25, 2018).

Optional: “[Chicago Principles](https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf),” (2014).

“[Executive Order: Improving Free Inquiry, Transparency, and Accountability at Colleges and Universities](https://www.insidehighered.com/sites/default/server_files/media/White%20House%20Executive%20Order.pdf),” (2019).

TH (9.5): Stanley Fish, “There’s No Such Thing as Free Speech and it’s a Good Thing, Too”

 (1994).

Watch: *Berkeley in the Sixties* (1990)[excerpts].

**Week 4: Media Markets and the Law Part 1 (Telecommunications)**

T (9.10): Zelezny, “Ch. 9: The FCC and Broadcast Licensing,” (377-391, 403-413).

TH (9.12): Robert McChesney, “The Internet and Capitalism: Where Dinosaurs Roam?”

*Digital Disconnect: How Capitalism is turning the Internet against Democracy* (2014).

**Week 5: Media Markets and the Law Part 2 (Intellectual Property)**

T (9.17): Zelezny, “Ch. 8: Creative Property,” (318-376).

TH (9.19): Rosemary Coombe, “Introduction: Authoring Culture,” *The Cultural Life of*

*Intellectual Properties* (1998).

Lawrence Lessig, “[Piracy](http://www.authorama.com/free-culture-8.html),” from *Free Culture* (2005).

Watch: *Everything is a Remix* (2015).

**Part 2: Media Law and the Complexities of Legal Truth and Identity**

**Week 6: Defamation and the Value of Reputation**

T (9.24): Zelezny, “Ch. 4: Damage to Reputation,” (116-175).

Watch: *Nobody Speak: Trials of the Free Press* (2017).

TH (9.26): John C. Watson, “Times v. Sullivan: Landmark or Landmine on the Road to

Ethical Journalism?” *Journal of Mass Media Ethics* (2009).

Adam Liptak, “[Justice Clarence Thomas Calls for Reconsideration of Landmark Libel Ruling](https://www.nytimes.com/2019/02/19/us/politics/clarence-thomas-first-amendment-libel.html),” *New York Times* (Feb. 19 2019).

Explore: “[President Trump Plans for Libel Laws](https://firstamendmentwatch.org/donald-trumps-plans-libel-laws/),” *First Amendment Watch* (2018).

**Week 7: Different Genres of Speech/Communication**

T (10.1): Zelezny, “Ch. 10: Electronic Media Content / Broadcasters and Political Speech,”

(414-429).

TH (10.3): Zelezny, “Ch: 12: Commercial Speech,” (489-503).

**Week 8: The Problem of Truth and Deception in Law**

T (10.8): Zelezny, “Ch 12: Commercial Speech,” (503-534).

TH (10.10): Rebecca Tushnet & Eric Goldman, “Ch: 13 Featuring People in Ads,” from

*Advertising & Marketing Law: Cases and Materials* (2018) [excerpts].

David Zax, “[The War to Sell You a Mattress is an Internet Nightmare](https://www.fastcompany.com/3065928/sleepopolis-casper-bloggers-lawsuits-underside-of-the-mattress-wars),” *Fast Company* (2017).

**Week 9: Midterm and Obscenity Law**

T (10.15): In-Class Midterm Exam

TH (10.17): Zelezny, “Ch. 11: Obscenity and Indecency,” (446-488).

Optional: *Reno v. ACLU* (1997).

**Part 3: Media Law and the Challenges of Technological Change**

**Week 10: Privacy Law and Publicity Rights**

T (10.22): Zelezny, “Ch. 5: Invasion of Privacy,” (176-229).

Optional: Louis Brandeis and Samuel Warren, “The Right to Privacy,” *Harvard*

*Law Review* (1890).

TH (10.24): Tom Rasmussen, “[Why the Paparazzi are Suing Celebrities over Instagram Pics](https://i-d.vice.com/en_uk/article/a3xkmb/why-the-paparazzi-are-suing-celebrities-over-instagram-pics),”

(2019).

 “[Lawsuits over Paparazzi Images on Instagram Raise Celebrity Questions over](http://www.thefashionlaw.com/home/lawsuits-over-instagram-images-raise-celebrity-questions-over-right-of-publicity)

[Right to Publicity](http://www.thefashionlaw.com/home/lawsuits-over-instagram-images-raise-celebrity-questions-over-right-of-publicity),” *The Fashion Law* (October 19, 2018).

**Week 11:** **Media Coverage of Courts and the Law**

T (10.29): Zelezny, “Ch. 7: Media and the Justice System,” (268-298).

TH (10.31): Listen: “[Anything You Say Can and Will be Used…On Television](https://www.thisamericanlife.org/675/im-on-tv/act-one-5),” *This American*

*Life* (2019).

**Week 12:** **Access to Information and Research Guidance**

T (11.5): Zelezny, “Ch. 6: Access to Places and Information,” (230-267).

Jamie Williams, “[D.C. Court: Accessing Public Information in not a Computer](https://www.eff.org/deeplinks/2018/04/dc-court-accessing-public-information-not-computer-crime)

[Crime](https://www.eff.org/deeplinks/2018/04/dc-court-accessing-public-information-not-computer-crime),” (2018) *Electronic Frontier Foundation.*

TH (11.7): Research Guidance for Final Papers

**Week 13:** **Media Law and Digital Platform Regulation**

T (11.12): Lawrence Lessig, “The Laws of Cyberspace,” (1998).

Robert Gorwa, “What is Platform Governance?” *Information, Communication, &*

*Society* (2019).

Optional: Emily Bell and Taylor Owen, “[The Platform Press: How Silicon Valley Reengineered Journalism](https://academiccommons.columbia.edu/doi/10.7916/D8R216ZZ),” (2017).

TH (11.14): Philip Napoli, “Social Media and the Public Interest: Governance of News

Platforms in the Realm of Individual and Algorithmic Gatekeepers,” *Telecommunications Policy* (2015).

Optional: Philip Napoli, “What if More Speech is No Longer the Solution? First

Amendment Theory Meets Fake News and the Filter Bubble,” *Federal Communications Law Journal* (2018).

**Week 14: Data Journalism and the Law**

T (11.19): D. Victoria Baranetsky, “[Data Journalism and the Law](https://www.cjr.org/tow_center_reports/data-journalism-and-the-law.php),” (2018) [excerpts].

TH (11.21): Jack Goldsmith, “[The U.S. Media is in the Crosshairs of the New Assange](https://www.lawfareblog.com/us-media-crosshairs-new-assange-indictment)

[Indictment](https://www.lawfareblog.com/us-media-crosshairs-new-assange-indictment),” *Lawfare* (May 24, 2019).

Gabe Rottman, “[The Assange Indictment Seeks to Punish Pure Publication](https://www.lawfareblog.com/assange-indictment-seeks-punish-pure-publication),”

*Lawfare* (May 24, 2019).

Watch: *We Steal Secrets* (2013) [excerpts].

**THANKSGIVING HOLIDAY** (11.26 and 11.28)

**Week 15:** **Final Exam Review and Presentations**

T (12.3): Presentations and Final Paper Due

TH (12.5): Exam Review