

---

## COMMUNICATIONS LAW AND POLICY – LAW 343-A03

### COURSE DESCRIPTION AND OUTLINE

Spring 2011

	<b>Hank Intven</b>	<b>Professor Hudson Janisch</b>
<b>Office:</b>	Off Campus	Room 211
<b>Telephone:</b>	416.601.7878	250.721.6396
<b>E-mail:</b>	hintven@mccarthy.ca	hjanisch@uvic.ca
<b>Course website:</b>	See Moodle site for this course	
<b>Time/location:</b>	Monday, 3:30 – 6:30 p.m. / Room 158	

#### I. COURSE DESCRIPTION

This course examines the legal and policy framework that governs the electronic communications media that enable today's 'information age'. The primary focus is on the regulatory framework for (1) Canadian telecommunication services, including telephony, cable TV, broadband Internet, mobile and fixed wireless services, and satellite services, and (2) Canadian broadcasting content services, including over-the-air television & radio, satellite, cable TV channels and Internet TV services. Related issues, such as the transition of broadcasting to Internet and wireless-based new media content services and broadcast retransmission copyright will also be covered.

#### II. COURSE OBJECTIVES

By taking this course, students will:

- (i) develop their knowledge of the legal, regulatory and policy framework for Canadian telecommunications and broadcasting services;
- (ii) develop an understanding of the general public law framework (constitutional and administrative law) governing the communications industry, as well as an understanding of the key government and regulatory institutions in the area; and
- (iii) develop an appreciation of key legal and policy issues faced by governments, citizens and businesses in today's information age, including telecommunications competition policy, promotion of Canadian content and diversity of programming, lawful access by law enforcement agencies, cybercrime and spam, and the impact of new digital communications technologies.

#### III. COURSE MATERIALS

A list of class topics and reading materials will be available on the class web site and updated from time to time. The following publications (extracts of which will appear on the reading list) will be distributed to students, and/or be available online, as indicated:

- CRTC, *Communications Monitoring Report 2010*: available online at: <http://www.crtc.gc.ca/eng/publications/reports/PolicyMonitoring/2010/cmr.htm>
- McCarthy Tétrault, *Canadian Broadcasting Regulatory Handbook*, 2010 (Will be distributed to students and is on reserve in library).
- Peter S. Grant & Chris Wood, *Blockbusters and Trade Wars: Popular Culture in a Globalized World* (Vancouver: Douglas & McIntyre Ltd., 2004) (On reserve in library)

Students are expected to read all required readings on the reading list before class (except for the first class). Informed discussion of the issues raised in these required readings will be taken into account as part of the course evaluation (see “Method of Evaluation” below).

Additional readings and other research material will be recommended to students who want to develop a greater understanding of specific issues, and for students writing papers on related topics.

Relevant articles, web site links and other material, including news clippings will be made available as handouts or be posted on the course web site, from time to time.

#### IV. COURSE METHODOLOGY

The course will be delivered through a combination of in-class presentations and discussions by the instructors and via video conference. The majority of the 3-hour once-a-week sessions will be devoted to presentations delivered by the instructors in an interactive format, with questions and comments encouraged. Professor Janisch will be in the class room for all classes. Mr. Intven will also be in the classroom for the introductory session and for several additional classes. Mr. Intven and a number of guest speakers, who are involved in the communications industry or its regulation, will deliver the majority of the remaining presentations by videoconference from Toronto. Professor Janisch will be available on campus during the full term to provide guidance on the research papers. Mr. Intven will be on campus for this purpose several times during the term and otherwise be available on line.

#### V. COURSE EVALUATION

The final grade for this course will be based on three components, as follows:

- **75%** of the final grade for the course will be awarded for a **research paper** on a topic approved by the instructors and based on an approved outline. A list of suggested research topics will be circulated by the instructors. All topics selected by students must be approved by the instructors no later than February 28, 2010. Unless it is a major research paper (see below), the research paper should be **5,000 – 6,000 words** in length, exclusive of footnotes and endnotes. It must be submitted no later than midnight, **April 5, 2010** (the last day of classes).
- **15%** of the final grade will be awarded for a **research paper proposal** for the paper a student proposes to write. The proposal is due no later than 3:30 pm on **February 14, 2010** (i.e. at the beginning of the review session scheduled for that date). The review session will discuss subjects covered in the course to date, with an emphasis on topics students may wish to pursue in their research papers.

The proposal must be no more than **1,200 words** in length. It must include an abstract of the subject-matter to be covered in the student's final research paper, a detailed outline of sub-topics to be covered, and a short description of the research and analytical approach to be pursued, information sources and other resources to be consulted. Prof. Janisch will be available on campus for individual consultations with students to review their proposals, and to provide guidance on research papers, which may ultimately be based on the proposal or on a different topic approved by the instructors. Students should schedule appointments for these consultations in advance with Prof. Janisch.

- **10%** of the final grade will be awarded for **class participation**. This mark is assigned to reflect the fact that the course will be more rewarding for students if they come to classes well-prepared to engage in an informed discussion of the issues on the syllabus. This 10% portion of the final grade will be granted if the following requirements are met:

(a) the research paper proposal described above (under "Method of Evaluation") is handed in on time;

(b) attendance (see below); and

(c) responsible participation in classroom discussions.

If requirement (a) is met and attendance and participation in class discussions is acceptable, a student will be granted the full 10 marks for class participation. Subject to the need for reasonable accommodation, if any requirement is not met, a student will fail to get any marks out of the 10 marks for class participation. In other words, depending upon whether they meet the requirements listed above, a student will either get full marks for class participation or none.

**Attendance** - Students are expected to attend all classes and to have read the required readings for each class, including any updates posted on the course web site (at least three days in advance of a class). If for any reason students are unable to attend a class session, they must inform the instructors by email in advance. A student who misses more than two class sessions without good reason will forfeit the 10 marks assigned to course participation.

- With the express prior permission of the instructors, a limited number of students may be authorized to write and submit their research paper to fulfill the Faculty's **major research paper** requirements. (All upper year students are required, at some point during the four upper year academic terms, to research and write a major paper, 7,500 words minimum, exclusive of footnotes and endnotes). Professor Janisch has agreed to supervise up to 4 or 5 students who wish to write their major research paper as part of this course. As with other research papers, the submission deadline for such a paper will be **April 5, 2010**.

### **Penalties for Failure to Complete Assignments and Failure to Meet Deadlines**

A student who fails to meet a deadline without prior approval from the course instructors will be penalized by reducing that student's grade for the assignment by one letter grade for every day, or part of a day, that the assignment is late. All assignments must be completed. Failure to complete any assignment will result in a grade of "N" (incomplete).

### **Grading**

The assignments and exam will be graded by numerical percentage. The final grade for this course will be calculated by adding the weighted numerical grades of all evaluation components and determining the equivalent letter grade for the total of those weighted components as in the following example:

<u>Example</u>	Percentage	Weight	Marks
Research Paper	83% x	75% =	62.3
RP Proposal	62% x	15% =	9.3
Class Participation	100% x	10% =	10.0
Final Grade		=	81.6 = A - (Final grade)

In grading papers, the following elements will be taken into account:

1. Thesis: clear articulation of argument
2. Organization: clear structure throughout paper
3. Research: breadth and depth of research
4. Analysis: logic, balance, depth, context, critical analysis
5. Originality/creativity: novelty, insight
6. Style: correct legal citation, flow and grammar

All citations in papers must conform to the current edition of the Canadian Guide to Uniform Legal Citation (McGill Guide). Substantial non-compliance with the McGill Guide will result in a deduction up of to 10 marks. Non-compliant citations are subject to a one mark penalty per citation.

### **Due date and submission requirements**

- A hard copy of the paper or book review must be submitted to the general office by **Tuesday, April 5, 2011 at 4:00 pm** (the last day of classes for the term). **You must also send a copy of the paper or book review to both instructors by email.**
- Students must note the word count for the paper or book review on the title page of the paper.
- Codenames should not be used on papers or book reviews.
- Failure to submit the paper or book review by the deadline will result in a loss of three marks per day on the paper's or book review's final numerical mark out of 100 unless the instructor or Associate Dean has granted an extension. Failure to submit the paper or book review electronically will result in a loss of three marks on the paper's or book review's final numerical mark.
- Papers or book reviews that are under or over the word count minimum or maximum will be penalized five marks. The part of the paper over the word count will not be marked.

### **Official Grading System**

The table below shows the official grading system used by the instructor in arriving at final assessments of student performance.

Passing Grades	Grade Point Value	Percentage Value	Description	Comments
<b>A+</b>	9	<b>90-100%</b>	<b>Exceptional</b>	Grades in this range are normally achieved by a minority of students. These grades indicate a student who is self-initiating, exceeds expectation, and has an insightful grasp of subject matter.
<b>A</b>	8	<b>85-89%</b>	<b>Outstanding</b>	
<b>A-</b>	7	<b>80-84%</b>	<b>Excellent</b>	
<b>B+</b>	6	<b>75-79%</b>	<b>Very good</b>	Grades in this range are normally achieved by the largest number of students. These grades indicate a good grasp of subject matter or excellent grasp in one area balanced with satisfactory grasp in the other area.
<b>B</b>	5	<b>70-74</b>	<b>Good</b>	
<b>B-</b>	4	<b>65-69%</b>	<b>Solid</b>	
<b>C+</b>	3	<b>60-64%</b>	<b>Satisfactory</b>	These grades indicate a satisfactory performance and knowledge of subject matter.
<b>C</b>	2	<b>55-59%</b>	<b>Minimally satisfactory</b>	
<b>D</b>	1	<b>50-54%</b>	<b>Marginal</b>	A student receiving this grade demonstrates a superficial grasp of subject matter.
<b>F</b>	0	<b>49% and below</b>	<b>Unsatisfactory</b>	

## VI. UNIVERSITY REGULATIONS, EXPECTATIONS AND ACCOMMODATION

### 1. Regulations

Students should obtain and review all regulations and policies contained in the current University of Victoria Calendar, both generally and specifically for the Faculty of Law.

### 2. Classroom Climate

An inclusive, respectful, and diverse classroom environment is crucial to our work in this course. To ensure that all class members feel welcomed and equally able to contribute to class discussions, we as instructors and you as students must endeavour to be respectful in our language, our examples, and the manner in which we conduct our discussions and group work. We have both an ethical and legal obligation to support this kind of environment.

For your reference, you may wish to consult the University's Policy on Human Rights, Equity and Fairness (<http://www.uvic.ca/universitysecretary/policies/>) and Policy on Discrimination and Harassment Policy (<http://www.uvic.ca/universitysecretary/policies/>). In particular, Section 5.1 of the Policy on Human Rights, Equity and Fairness provides that "All members of the university community are responsible for promoting a supportive and inclusive learning and working environment and for dealing respectfully and fairly with each other."

In addition, as lawyers in training, we expect you to conduct yourself in accordance with professional standards and rules of conduct. In particular, the Law Society of British Columbia's

Professional Conduct Handbook provides in Chapter 1, Rule 4 that: “A lawyer's conduct toward other lawyers should be characterized by courtesy and good faith.”

We expect all aspects of this class to be conducted with this commitment firmly in mind. If you have any concerns about the climate of the class, please feel free to contact either of the instructors or the Associate Dean.

### **3. Academic Integrity**

As part of the academic community of both the Faculty of Law and the University as a whole, academic integrity is centrally important in the work of faculty and students. All student work in this course must adhere to the University's Policy on Academic Integrity.

In particular, please note that the policy on plagiarism is as follows:

“A student commits plagiarism when he or she:

- submits the work of another person as original work
- gives inadequate attribution to an author or creator whose work is incorporated into the student's work, including failing to indicate clearly (through accepted practices within the discipline, such as footnotes, internal references and the crediting of all verbatim passages through indentations of longer passages or the use of quotation marks) the inclusion of another individual's work
- paraphrases material from a source without sufficient acknowledgement as described above

Students who are in doubt as to what constitutes plagiarism in a particular instance should consult their course instructor.

### **4. Students with a Disability**

If you have any type of disability, there are support systems, resources, and accommodation actions available to you. If you wish to access any of these supports, resources or accommodations, we encourage you to contact the Associate Dean or the Resource Centre for Students with a Disability (<http://rcsd.uvic.ca/home.ihtml>) and we would be more than happy to work with you to ensure your success in this course.

### **5. Accommodation of Religious Observances**

The University of Victoria and the Faculty of Law have policies guaranteeing accommodation for those students who are unable to participate in a class or an aspect of the course owing to a religious holiday (see <http://www.uvic.ca/universitysecretary/policies>). If you will be missing a class, know that you will be unable to complete an assignment or exam, or otherwise require accommodation on account of a religious holiday, please advise the instructors (or the Associate Dean) and we will be pleased to work out some satisfactory form of accommodation.

## **VII. DOUBLE-SIDED PRINTING ENCOURAGED**

In recognition that members of the university community have a personal responsibility for the way their conduct impacts the local and global environment, students are encouraged that all

reports and other documents, whenever possible, be printed on both sides of the paper (University of Victoria Operational Policy 6485, Waste Management, section 2.8.1)

### **VIII. COURSE OUTLINE**

The schedule of topics to be covered in each class is set out below. A reading list will be posted on the class web site. Please note that the schedule and the assigned readings are subject to change as the course progresses.

- Class 1. Jan 10 - Overview of the Communications Industry, Law, Policy & Regulation
- Class 2. Jan 17 - The Constitutional & Administrative Law Framework
- Class 3. Jan 24 - The Institutional Framework
- Class 4. Jan 31 - The Development of Telecom Law & Policy
- Class 5. Feb 7 - The Development of Broadcasting Law & Policy
- Class 6. Feb 14 - Review Session – Outline and Research Summary Due  
Feb 21 - No Class – Reading Week
- Class 7. Feb 28 – Telecommunications Competition Policy
- Class 8. Mar 7- Content Regulation in Broadcasting & New Media
- Class 9. Mar 14 – Broadcasting Distribution Issues (The relationship between Broadcasting Distribution Undertakings & Programming Undertakings)
- Class 10. Mar 21 – Ownership Regulation (Market Concentration, Vertical Integration & Foreign Investment)
- Class 11. Mar 28 – Lawful Access, Spam, Cybercrime, Do Not Call List and related issues
- Class 12. Apr 4 - The Digital Agenda (Broadband Expansion, Net Neutrality and related issues)  
April 5 – Research Paper Due [Last day of classes]