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 <p>UEA Law School</p>	<p>Media, Entertainment & Sports Law (3B4Y) [30 credit] Media Law (3B7Y) [20 credit]</p> <p>Module Handbook 2011/12</p>
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Welcome! This handbook is for both Media, Entertainment & Sports Law (the 30-credit version) and Media Law (the 20-credit version), and it includes information on the various topics that will be covered over the course of both modules, as well as other essential information regarding assessment, workload and participation. Please read it carefully.

1. Overview

The legal aspects of media and sports are increasingly important. In an environment where they are often lucrative commercial enterprises while remaining culturally significant and of quite some public concern, any disputes must be resolved by balancing a range of seemingly contradictory factors. The course centres on law and regulation in the UK, as influenced by European law, and draws comparative insights from other jurisdictions throughout.

By the end of this module, students should:

- Be able to identify and explain the structure of the media industry in the UK
- Have an appreciation of the main social, technological and regulatory influences shaping its development
- Have an understanding of the regulation of the media and sports industries from an economic perspective
- Have an understanding of the issues relating to the management of media, entertainment and sports careers from a private law perspective, including the use of media and sports contracts, the protection of privacy and the end of livelihood issues
- Have an understanding of the importance of the protection of freedom of expression in the media context and regulation of the media from a public perspective.

2. Introductory Lecture

In Week 1, we introduce this module and the themes that will be dealt with throughout the year. This is your opportunity to ask any questions about readings, assessment and other practical matters. We will also discuss the media, entertainment and sports industries in general: how are they influenced and governed by various types of law? Common themes are presented, such as the management of rights and careers and the encouragement and protection of innovation and creativity. Substantive lectures then begin in week 2, as set out in this outline. The weeks refer to lecture weeks; seminars and workshops run to a different schedule.



3. Teaching methods and workload expectations

Three different teaching models will be used during the module. These are weekly lectures, fortnightly seminars (the first is in Week 3), and two workshops (one each semester).

- The lectures are intended to provide you with a short introduction to the subject only. You should not think that going to the lectures will provide you with all you need to know about the subject. The lectures are designed to provide a framework for thinking about the subject and guideposts for further reading. If you want to do well in this module, you must fill in the gaps by reading the materials assigned.
- Seminars are intended for you to practice the legal skills needed for the assessment and for your future careers, whether or not that is in the law; to consolidate the reading and learning that you have done; and to raise and discuss problems from your reading generally. Seminars are not occasions when silence is an option. You should prepare the assigned reading and seminar questions and come ready to discuss this in class. If you have had particular problems understanding something, the seminar is the opportunity to explore those with the lecturer. What seminars are not is mini-lectures or note-taking exercises. You will be expected to have done the reading in advance and should contact us at least 24 hours in advance by e-mail if you are not able to attend or have not been able to do the reading.
- These modules also feature workshops. Workshops are larger groups, where you can discuss a hypothetical practical problem that brings together the law we have been discussing during that particular block. Participation in workshops is an important part of your engagement with media law and can assist with the development of key transferable skills, particularly negotiation and groupwork. They also draw upon the latest developments in media law, putting you in the shoes of lawyers, public servants and journalists faced with difficult questions.

You must attend all three types. If you do not, you will find yourself at a disadvantage not just in terms of assessment and obtaining a good grade on the module, but in how you can make use of the material that you have read and learned in your future careers.

The expectations in terms of workload are as follows, but please note that this is a guide:

- The 20-credit module contains 17 weeks of lectures. The university's expectation is that you will spend 200 notional hours working on this module. One suggestion for managing this time is 17 hours lectures, 8 hours seminars, 4 hours workshops (total 30 hours in class), plus 7 hours per week of private study, revision and seminar preparation (119 hours), reserving 52 hours for exam preparation.
- The 30-credit module runs for a full year (23 weeks). The university's expectation is that you will spend 300 notional hours working on this module. One suggestion for managing this time is 23 hours lectures, 11 hours seminars, 4 hours workshops (total 37 hours in class), plus 7 hours per week of private study, revision and seminar preparation (161 hours), reserving 35 hours for writing your coursework and 66 hours for exam preparation.

4. Assessment

3B4Y (30-credit option):

Examination (2 hours, unseen, open book) worth 75% of final grade; coursework worth 25% of final grade.

3B7Y (20-credit option):

Examination (2 hours, unseen, open book) worth 100% of final grade.

An 'open book' examination means that you can bring any printed materials (including your own handwritten and printed notes) to the examination, with the exception of (a) books borrowed from the UEA libraries and (b) electronic devices of any sort. Approaching an open book exam requires a different approach to a traditional closed-book examination, and it is important that you keep your materials under control as the year proceeds. The nature of the exam will also be reflected in the questions and indeed the marking; little credit will be given for reproducing definitions from your carefully compiled notes, but students drawing upon these resources to write in an analytical and critical style should be very successful. Past papers are available on the university website.

The coursework, chosen from a number of topics, must be submitted by the prescribed deadline (both topics and deadline will be supplied to you), and is subject to a word limit of 2000 words. The Law School has a system of penalties for late submission and for failure to comply with the word limit.

5. Resources

Most readings for the course will be available via the Portal/Blackboard. Please confirm that you have access to the appropriate pages and check the website on a regular basis.

There is no recommended text for this module, but there are a number of useful books available in the library and for optional purchase:

- Goldberg, Sutter and Walden, *Media Law and Practice* (OUP, 2009) is a very comprehensive book on media law, including chapters on topics such as competition and new media not often found in media textbooks. It is very up-to-date, but is only available at a high price (approximately £75).
- Robertson & Nicol, *Media Law* is a useful book for some (but not all) of this module. It includes a very detailed consideration of the law on defamation, and also deals with other areas of media law such as contempt of court, broadcasting law and copyright. The best edition is the revised 5th edition, which has been republished in paperback by Penguin in 2008.
- Nicol, *Media Law and Human Rights* (2nd edition, OUP, 2009).
- McNae's *Essential Law For Journalists* (OUP) is the standard text for media law courses offered to journalism students. It's now in its 20th edition and takes a very

practical approach to media law, although without much in the way of criticism or detailed consideration of caselaw.

- Quinn, *Law for Journalists*. This has just been updated (3rd edition, Pearson, 2011) and, like McNae, is written with the journalist in mind.
- Feintuck and Varney, *Media regulation, public interest and the law* (2006) is available as an electronic book in the UEA library. It will be useful for the classes on broadcasting and competition.
- Gardiner, *Sports Law* (2006) is a good general text on sports law.
- There is also a useful statute book in the Blackstone's series, *Media Law* – the third edition (2010) is the most up to date.

Specialist journals include the Entertainment Law Review and Communications Law (both via Westlaw), the Entertainment and Sports Law Journal (on the Internet), and the Journal of Media Law. The Entertainment and Media Law Reports are available through Westlaw, although many cases are also reported in the general law reports and on websites like Bailii. The website of 5 Raymond Buildings (<http://www.5rb.co.uk>) contains cases and casenotes on media cases, particularly in the areas of defamation and privacy.

Some useful newspapers and web resources for news and new developments related to media law include:

- The Guardian (media supplement on a Monday, online at <http://media.guardian.co.uk>, weekly podcast is 'Media Talk')
- BBC Radio 4 ('The Media Show' weekly podcast when on air)
- Media Week (magazine, website): <http://www.mediaweek.co.uk>
- Press Gazette (magazine, website): <http://www.pressgazette.co.uk>

6. Contact Information

The module will be taught by

- Daithí Mac Síthigh (d.mac-sithigh@uea.ac.uk) (module organiser, semester 1)
- Karen Mc Cullagh (k.mccullagh@uea.ac.uk) (module organiser, semester 2)
- Michael Harker (m.harker@uea.ac.uk)
- Paul Bernal (paul.bernal@uea.ac.uk) and
- Rob Heywood (r.heywood@uea.ac.uk)

Schedule – in summary

Please note that this schedule may change during the course of the academic year. You will receive information on your seminar group allocation in your timetable. Workshops are also allocated to you, taking place in week 8 or 9 in each semester. The shaded lectures and seminars are taken by 3B4Y only.

Week (week beginning)	Lecture	Seminar	Workshop
SEMESTER ONE			
1 (26.9)	Introduction DMS		
2 (3.10)	Journalism DMS		
3 (10.10)	Journalism DMS	Journalism 1 DMS	
4 (17.10)	Journalism DMS		
5 (24.10)	Broadcast & Competition MH	Journalism 2 DMS	
6 (31.10)	Broadcast & Competition MH		
7 (7.11)	Broadcast & Competition MH	Broadcast & Competition 1 MH	
8 (14.11)	Broadcast & Competition MH		Workshop DMS/MH
9 (21.11)	Broadcast & Competition MH	Broadcast & Competition 2 MH	
10 (28.11)	Broadcast & Competition MH		
11 (5.12)	3b4y Entertainment DMS	Broadcast & Competition 3 MH	
12 (12.12)	3b4y Entertainment DMS		
SEMESTER TWO			
1 (16.1)	Defamation KMC	3b4y Entertainment PB	
2 (23.1)	Defamation KMC		
3 (30.1)	Defamation KMC	Defamation KMC	
4 (6.2)	Press & Ad Regulation KMC		
5 (13.2)	Privacy PB	Press & Ad Regulation KMC	
6 (20.2)	Privacy PB		
7 (27.2)	Privacy PB	Privacy PB	
8 (5.3)	3b4y Sport RH		Workshop KMC/PB
9 (12.3)	3b4y Sport RH	3b4y Sport RH	
10 (19.3)	3b4y Sport RH		
11 (26.3)	3b4y Sport RH	3b4y Sport RH	
12 (23.4)			

DMS: Daithí Mac Síthigh; **MH:** Michael Harker

KMC: Karen Mc Cullagh; **PB:** Paul Bernal; **RH:** Rob Heywood

Appendix: Information on Topics

Journalists and the Law (Daithí Mac Síthigh)

The purpose of these lectures and seminars is to introduce students to other laws that affect journalists, publishers and broadcasters. Students first examine the ways in which the practice and profession of journalism is affected by the law, including status, press cards and the role of the National Union of Journalists. The control of reporting on court proceedings, including specific rules relating to cases involving children or family law and the Contempt of Court Act, is a particular focus. The techniques of investigative journalism and the legal risks associated with such are discussed, looking at the way in which the law affects pre-publication activities (research, surveillance, etc) and considering the response to the allegations in the period 2007-2011 against the News of the World and others regarding their techniques. Finally, the question of what rights journalists and others have regarding the protection of sources is explored.

The Broadcasting Industry/ Markets & Ownership (Michael Harker)

The aim of these classes is firstly to map the development of the broadcasting sector, to review the role of national and supranational regulation in respect of disparate functions, and to question whether the envisaged future model of regulation is appropriate. Following on from these issues will be a discussion of the role of competition law in the media industries, and assess the questions of media ownership, diversity and pluralism.

First we will explain the structure and history of broadcasting in the UK. We start by with the creation of the BBC in the 1920s, and the advent of independent television in the 1950s (with emergence of an alternative economic model to direct funding public funding via the licence fee). We then identify recent technological developments that have seen the entry of cable, satellite and digital terrestrial platforms and, most recently, the prospect of on-demand internet-based delivery. We identify the distinct organisations offering services on the platform, channel and programming tiers of the distribution chain, and how they interrelate with one another. We then go on to look at public service broadcasting. Public service broadcasters have been a feature in the media landscape of most jurisdictions around the world. In the UK, the BBC has been a mainstay of cultural life for decades, and is funded through a hypothecated tax (the licence fee on ownership of receiving equipment) to the tune of in excess of £3bn per annum. It is not the only PSB however. Channels 3, 4 and 5 are each obliged to meet somewhat different public service obligations. We survey the literature on public service broadcasting – critically assessing the extent to which the policy can be sustainable in the long term given the rapidly different nature of the structure of the industry and the manner in which individuals interact with broadcasters.

The first part of the competition-focused lectures introduces you to: some of the core principles underlying the application of competition law (in particular, market definition and market power); the basic provisions of EC competition law (namely Articles 101 and 102 TFEU); highlights some of the particular competition issues which arise in the media sectors and the principles which underpin their treatment under competition law (in particular vertical integration, highly concentrated markets and bottlenecks in terms of

premium content); and looks at a selection of case studies where competition authorities have applied the substantive provisions of competition law. The second part deals with the competition and other rules which deal with media ownership. You will be given a brief overview of the issues arising out of media mergers, and how they have been dealt with under the European and domestic merger laws. Given the fundamental importance of a free and diverse media to the effective functioning of a modern democracy, merger control is an important legal mechanism by which concentration of ownership may be controlled. In media mergers, in addition to competition concerns, a merger may be blocked if there is a danger that it will result in a reduction of plurality of views. This reflects the fact that a concentrated media industry raises concerns, not least the ability of the media firms (and their owners) to subvert the political process.

3B4Y ONLY : Entertainment Law (Daithí Mac Síthigh)

Two topics are dealt with under the heading of 'entertainment law'. The first is the role played by *contracts and rights agreements*, considering the role that these documents play in the management of careers as well as the allocation of risk and responsibility. Music and television contracts are used as the basis for these classes, and students are introduced to the main types of music contract (publishing, recording and management) and the role that copyright and image rights play in contractual negotiations. Key skills relating to the analysis, explanation and negotiation of contracts are developed, and recent changes in the balance of power across the industries are debated. The second topic is *new media*. Students are introduced to the challenges presented by new forms of media and entertainment, such as websites, user-generated content, video-on-demand and mobile services. Case studies are used, both of which are important (profitable) sectors of present-day entertainment using advanced technologies: video games and online gambling. These examples demonstrate how Parliament struggles to design an appropriate regulatory system while social and commercial developments continue at a rapid pace.

Defamation, Privacy and Speech (Karen Mc Cullagh, Paul Bernal)

These lectures examine the ways in which English law affects what can be published by the media. First we will look at: (1) the various ways content is affected by the law (private law / criminal law / institutional self-regulation) and (2) the interests at stake namely, the rights to reputation and privacy and the countervailing right to freedom of expression. We will then examine in outline the main rules of defamation and privacy in English law. The focus will be on explaining the structure of the rules and how these reflect and balance the interests (i.e., between freedom of expression and reputation and privacy) rather than seeking to provide a detailed treatment of the (very complex) rules of defamation and privacy. Finally we will look at other methods by which content is shaped, for example, criminal laws against obscenity, official secrecy legislation, hate speech. We will also discuss, in passing, institutional (and other) self-regulation and in particular the role played by the PCC.

3B4Y ONLY: Sports Law (Rob Heywood)

This component of the module will focus on how the law impacts upon the sports and media industry, drawing on the recurring themes, with an emphasis placed on the regulation of the sports industry and the protection of participants' careers, with additional analysis on the spectator experience. We will highlight how the law attempts to regulate the conduct of sporting participants and how this is portrayed by the media. We will also discuss how the array of legal rules can serve to the benefit and detriment of sports participants and their long-term futures.

First we look at civil liability in sport. We will focus on the law as a method of compensatory redress for those who have fallen victim to career ending challenges. It will also consider the function and scope of tort law as a deterrent to those who wish to engage in inappropriate conduct in sport which may have significant consequences for the future careers of others. A number of further issues will be covered including the spectator experience and the role of referees in sport. Finally, we will highlight the potential liabilities of governing bodies for negligent conduct which may have adversely affected competitors under their control. We will then go on to look at the nature and powers of sports governing bodies. Discussion will centre on the traditional self-regulatory nature of these bodies and the problems therein. Also, the legal methods for redress will be critically analysed including the role of judicial review and unlawful restraint of trade. We then look at the regulation of drugs in sport, highlighting the continuing problem of drugs in sport and the difficulties with enforcing the WADA code. The dangers with the strict liability approach will be demonstrated, so too the potential drastic consequences that this may have on a competitor's career. The inconsistencies with the exceptional circumstances defence will also be studied and duly criticised.

Finally, we discuss the *Bosman* ruling and its implications for the free movement of workers within the EU and how this has affected rules in regard to certain sports. It will also discuss how the law has influenced player contracts and served to redress the traditional balance of power between players and their clubs.