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**NEW MEDIA LAW & REGULATION**  
**MCOM 3700**  
**Autumn 2014**

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Instructor: Dr. Derigan Silver  
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Office Hours: Tuesday & Thursday, 2:00 – 3:00 p.m.  
Or, by appointment

**COURSE DESCRIPTION**

Who controls the Internet? Can a European country force an American company to remove material from the Internet? In America, should the Internet be regulated like newspapers and magazine or like broadcast or cable television? Can an individual who posts pornography on a website in Los Angeles be prosecuted for violating obscenity laws in Nebraska? What types of websites should you be able to access at your local library? What happens when the Internet is used to threaten or intimidate? How has new technology changed copyright? Can a student be suspended or expelled from school for placing material on his Facebook page? How have social media sites such as Twitter and Facebook changed communication law? Should broadband service providers be able to slow or block the content of their competitors? What is the future of the Internet?

Today, the Internet is radically changing all areas of communication. Therefore, today's students need to be prepared to be the leaders of tomorrow when it comes to regulating this exciting new medium. This course is designed to identify and explain some of the issues related to regulating the Internet and to guide students in thinking critically about how these issues can best be resolved. In addition, the course reviews what the courts have said about regulating the Internet as well as how other branches of government and the private sector have responded to the Internet. The course will focus both on very broad questions such as how the First Amendment applies to the Internet and how nations and corporations control the medium, as well as on narrow issues such as whether or how social networking sites should be regulated by the government.

**OBJECTIVES**

In this course students will:

- **Learn the history and current structure of the Internet and how Internet based media interact with global political systems.**
- **Learn to articulate concepts and principles specific to the study of media and the Internet.**
- **Understand how the law is shaped by communication technology and how the law shapes those technologies.**
- **Complete a research paper designed to familiarize students with a current legal topic specifically dealing with new media and/or the Internet.**

## REQUIRED TEXTS

W. Wat Hopkins, ed. *Communication and the Law*. Northport, AL.: Vision Press, 2013. Available on e-reserve. For instructions on how to access this material, see below.

Lawrence Lessig, *Free Culture: The Nature and Future of Creativity*. The Penguin Press, 2004. This book is available for free here: <http://www.free-culture.cc/freecontent/>.

Rebecca MacKinnon, *Consent of the Networked: The Worldwide Struggle for Internet Freedom*, New York: Basic Books, 2012.

Madeleine Schachter and Joel Kurtzburg, *Law of Internet Speech*. Durham, N.C: Carolina Academic Press, 2008. Available on e-reserve. For instructions on how to access this material, see below.

Daniel J. Solove, *Nothing to Hide: The False Tradeoff Between Privacy and Security*, New Haven: Yale University Press, 2011.

## CANVAS WEBSITE

This course uses the Canvas website that the University of Denver provides. The site is a crucial resource for this course, and you will need to access it frequently.

You will find important course materials posted on the Canvas site: the syllabus (with links to Web-based readings); PowerPoint slides from class lectures; and other important materials, such as exam study guides. Be sure you know how to access and use Canvas.

To access e-reserve from the course page on Canvas.

## READINGS, ATTENDANCE & PARTICIPATION POLICY

Class attendance is essential because this course is designed as a seminar in which all students are active participants. This is not a course for students who do not want to attend or contribute to class.

Attendance will be taken at the start of every class. During the course each student will be permitted three (3) absences for whatever reason (job interview, sickness, family commitments, ski days, etc.). I do not require any advanced notice of your absence nor explanation when you return. There will be no additional “excused absences” beyond these three. For each absence in excess of three, regardless of the reason, your final score in the class will be reduced by one point. A tardy will count as ½ of an absence as will leaving class early.

View your three free absences as the sick leave and personal days generally allowed employees in a work environment. In the workforce, employees who use up all their sick

leave and personal days and then find themselves obliged to take off additional time do so without pay. Having your grade reduced is the equivalent to “unpaid leave.”

In addition, all reading assignments should be completed *before* the class period during which we will discuss a particular topic. *You may be called on in class to answer questions related to the day’s readings. This is true even if you do not volunteer to answer the question.*

In sum, it will be extremely difficult for you to follow the lectures, participate in the discussion, respond to my questions, and ask intelligent questions of your own if you come to class inadequately prepared. Attendance at lectures and *informed* participation in discussion are essential to doing well in this class.

### ASSIGNMENTS

In addition to participating in class, you will earn points for the following activities.

**Reading quizzes.** From the second to the ninth week, there will be a 10-minute reading quiz (eight quizzes in total) each Wednesday. These quizzes are designed to ensure that you have done the reading as well as give you an opportunity to score easy points in the course.

**Research paper and presentation.** Instructions for the research paper will be made available in the Research Paper folder on Blackboard. Also available on Blackboard is “A Legal Research Primer,” which provides the basic instruction you need to do a good research paper. Paper requirements will be different for graduate students. Be sure you are familiar with what is required from you. *Late research papers will not be accepted.*

### GRADING

Final grades in this course will be based on evaluation of three exams and class preparation and participation.

<b>Class participation</b>	<b>15%</b>
<b>Reading quizzes</b>	<b>30%</b>
<b>Research presentation</b>	<b>15%</b>
<b>Research paper</b>	<b>40%</b>

### STUDENTS WITH DISABILITIES

Any students with disabilities should contact the Disability Services Program to determine whether and to what extent services or accommodations are required for this course. If you think this notice might apply to you, please contact the Department of Disability Services at 303-871-2278 or visit the program’s website at: <http://www.du.edu/disability/dsp/>

## UNIVERSITY OF DENVER HONOR CODE

All members of the University of Denver are expected to uphold the values of *Integrity*, *Respect*, and *Responsibility*. These values embody the standards of conduct for students, staff, faculty, and administrators as members of the University community. The *Honor Code* is designed so that responsibility for upholding these principles lies with the individual as well as the entire community.

The *Honor Code* fosters and advances an environment of ethical conduct in the academic community of the University, the foundation of which includes the pursuit of academic honesty and integrity. Through an atmosphere of mutual respect we enhance the value of our education and bring forth the highest standard of academic excellence. Members of the University community, including students, faculty, staff, administrators and trustees, must not commit any intentional misrepresentation or deception in academic or professional matters.

Violations of these policies include, but are not limited to:

- **Plagiarism**, including any representation of another's work or ideas as one's own in academic and educational submissions.
- **Cheating**, including any actual or attempted use of resources not authorized by the instructor(s) for academic submissions.
- **Fabrication**, including any falsification or creation of data, research or resources to support academic submissions.

The *University of Denver Honor Code Procedures Governing Students*, available at [www.du.edu/honorcode](http://www.du.edu/honorcode), shall govern and be followed in the case of any student at the University who is accused of violating the *Honor Code*.

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## TENTATIVE COURSE SCHEDULE

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www = reading available on the Internet; C = reading available on Canvas;  
CTL = *Communication and the Law*; RM = *Consent of the Networked*  
LL = *Free Culture*; DS = *Nothing to Hide*; M&S = *Law of Internet Speech*

### WEEK I

- M 9/8:**                    **Introduction; Sources of Law & the U.S. Legal System**  
www: United States v. Baker. Available at  
<http://cyber.law.harvard.edu/ilaw/Speech/Baker1.html>  
C: Syllabus  
CTL: Chapters 1 & 2
- W 9/10:**                **U.S. Legal System Continued & Conducting Legal Research**  
C: “Proposal Preparation,” “A Legal Research Primer” & “Paper Instructions”

### WEEK II

- M 9/15:**                **The Internet and the Law**  
www: John Perry Barlow, “Declaration of the Independence of Cyberspace.” Available at  
<http://homes.eff.org/~barlow/Declaration-Final.html>  
www: 40 Maps that explain the Internet, at  
<http://www.vox.com/a/internet-maps>  
www: Robert Corn-Revere, “Internet & the First Amendment: Overview.” Available at  
<http://www.firstamendmentcenter.org/internet-first-amendment-overview>  
RM: Introduction, Chapters 1 & 2
- W 9/17:**                **The Internet and the Law**  
RM: Chapters 3 & 4

### WEEK III

- M 9/22:**                **The Internet and the Law**  
RM: Chapters 5, 6 & 7  
John G. Palfrey, Jr., “The Global Problem of State Censorship and the Need to Confront It,” in *The Next Digital Decade*, 2010, available at [http://nextdigitaldecade.com/ndd\\_book.pdf#page=532](http://nextdigitaldecade.com/ndd_book.pdf#page=532)
- W 9/24:**                **The Internet and the Law**  
RM: Chapters 8, 9 & 10

**F 9/26:**

**Paper Proposal & Preliminary Bibliography Due**  
Email to [derigan.silver@du.edu](mailto:derigan.silver@du.edu) by 5:00 PM, Friday September 26

**WEEK IV**

**M 9/29:**

**The Internet and the Law**  
RM: Chapters 11, 12, 13 & 14

**W 10/1:**

**Regulation of Objectionable Content: Obscenity**  
M&S: Chapter 2, Obscenity and Indecency, pp. 260-301  
www: U.S. v. American Library Association. Available at  
<http://supreme.justia.com/cases/federal/us/539/194/case.html>

Schedule an appointment to meet one-on-one with your instructor during week five to discuss your research paper.

**WEEK V**

**M 10/6:**

**Regulation of Objectionable Content: Fighting Words, Incitement and True threats**  
M&S: Chapter 2, 177-215

**W 10/8:**

**Copyright, Digital Media and the Internet**  
LL: Introduction, Chapters 1-5

Meet with your instructor one-on-one to discuss your research paper.

**WEEK VI**

**M 10/13:**

**Copyright, Digital Media and the Internet**  
LL: Chapters 6-10

**W 10/15:**

**Copyright, Digital Media and the Internet**  
LL: Chapters 11-14, Conclusion & Afterwards  
www: American Broadcasting Co. v. Aereo Inc. Available at  
[http://www.supremecourt.gov/opinions/13pdf/13-461\\_1537.pdf](http://www.supremecourt.gov/opinions/13pdf/13-461_1537.pdf)

**F 10/17:**

**Introduction, Background & Literature Review Due**  
Email to [derigan.silver@du.edu](mailto:derigan.silver@du.edu) by 5:00 PM, Friday October 17

## WEEK VII

**M 10/20:**                    **Privacy and Surveillance in a Digital World**  
C: Jeffrey Rosen, *The Naked Crowd: Balancing Privacy and Security in an Age of Terror*, 46 Ariz. L. Rev. 607 (2004).  
www: Michael Zimmer, "Privacy Protection in the Next Digital Decade: 'Trading Up' or a 'Race to the Bottom'?", in *The Next Digital Decade*, 2010, available at  
[http://nextdigitaldecade.com/ndd\\_book.pdf#page=478](http://nextdigitaldecade.com/ndd_book.pdf#page=478)

**W 10/22:**                    **Privacy and Surveillance in a Digital World**  
DS: Introduction & Chapters 1-5

## WEEK VIII

**M 10/27:**                    **Privacy and Surveillance in a Digital World**  
DS: Chapters 6-9

**W 10/29:**                    **Privacy and Surveillance in a Digital World**  
DS: Chapters 10-15

## WEEK IX

**M 11/3:**                    **Privacy and Surveillance in a Digital World**  
DS: Chapters 16-21

**W 11/5:**                    **Net Neutrality**  
www: Jack M. Balkin, *Media Access: A Question of Design*, available at  
[http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1223&context=fss\\_papers](http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1223&context=fss_papers)  
www: Verizon v. FCC (D.C. Cir. 2014) available at  
[http://www.cadc.uscourts.gov/internet/opinions.nsf/3AF8B4D938CDEEA685257C6000532062/\\$file/11-1355-1474943.pdf](http://www.cadc.uscourts.gov/internet/opinions.nsf/3AF8B4D938CDEEA685257C6000532062/$file/11-1355-1474943.pdf)

## WEEK X

**M 11/10:**                    **Student presentations**

**W 11/12:**                    **Student presentations**

**FINAL PAPERS—Due Wednesday 11/19/2014**

Your final paper is due by **email** no later than **5:00 PM**.

Email to [derigan.silver@du.edu](mailto:derigan.silver@du.edu).

**NO LATE PAPERS WILL BE ACCEPTED FOR ANY REASON.**