Undergraduate Elective
Units of Credit: 6
Contact hours per week: 3

Convenor: David Vaile
Location: Room 153, Level 1, Law Building (F8)
Ph: (02) 9385 3589
Email: d.vaile@unsw.edu.au
Availability: By appointment - email is best method of contact

Please email your teacher if you need a consultation. You can also contact the convenor any time by phone or email for an appointment.
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1 COURSE INFORMATION

1.1 Class Schedule and Teaching Staff

Your Class Schedule
Please check your class timetable using the web based ‘Timetable Planner’ at http://www.law.unsw.edu.au/current_students/timetable/index.asp
[Note: Please check that the planner and the dates that you have selected for your classes are the same.]

Your Teacher
It is the policy of UNSW Law as far as possible to allow teachers to teach in their area of research and expertise. This means that students are exposed to academics and researchers who are experts in their fields. The areas of expertise of this course vary.

David Vaile became executive director of the Cyberspace Law and Policy Centre UNSW in 2002. He has coordinated Centre support for ARC research projects such as Online ID Fraud, Unlocking IP, Interpreting Privacy Principles and Regulating Online Investing, including input into public policy processes; and presents at conferences and fora; runs intern programs; and teaches Cyberspace Law, Law in the Information Age, and Advanced Legal Research. His background in law, IT and communications includes medical record software (JAM Software), legal research (Legal Aid NSW), data protection (Privacy Commissioner's Office), pro bono, public interest and test case litigation (Public Interest Advocacy Centre and others), co-founding the virtual community for NGO lawyers and advocates ('First Class Law' with the Law and Justice Foundation of NSW and NACLC), online professional education, and governance of IT risks. His research interests include personal safety online, content regulation, e-security and IT risk management, privacy and data protection, jurisdictional issues, copyright and digital IP, e-health records, and user-centred design. He is a past member of Information Security World Advisory Board, former chair of a statewide community legal service, and board member of Australian Privacy Foundation.

On occasion there may be expert guest lecturers invited to give part or all of a class.

The wealth of research and experience of the teachers ensures that this course is both current and relevant, as the course description below indicates.

1.2 Online materials

As a student in this course you will have access to course pages on the current site, and to a prototype Moodle site being converted from the current site. These are online materials and support sites designed to complement your learning.

The existing site has a link to materials which requires a password to be given out in class.

Students are provided with personalised usernames (z plus your Student ID number) and passwords (zpass) to login and access information and resources specifically related to the Moodle course in which you are enrolled. Information typically found on the site includes course outlines, course handouts, assignment submission, links to the Law Library, feedback from lecturers, discussion areas and email facilities. Students should log in regularly.

To login proceed to the TELT Gateway, from which you can gain access to Moodle: http://teaching.unsw.edu.au/students

1.3 Course Description

This course will focus on the regulation of the online world and networked transactions and will explore these ideas from the viewpoint of users and consumers, particularly those engaging with Social Media and
other Internet 2.0 services. Cyberspace Law 2.0 is a General Studies elective subject for non-law-students, while LAWS3532 is available for certain law students. It provides a good grounding for understanding how the legal and regulatory world interacts with online ones.

1.4 Aims

The Cyberspace Law 2.0 Course aims to assist you to:

- Appreciate how the online world is similar and different from the physical world from a regulatory perspective;
- become competent in reading and understanding court case judgments and how they are constructed and show which arguments won and why;
- be able to take a systematic approach to analysing the legal issues involved in various problems and conflicts commonly encountered online;
- develop an understanding of the implications of different countries and jurisdictions having different laws, but online services covering the world;
- understand the range of options which may be available for dealing with online disputes, and how to choose amongst them.

1.5 Graduate Attributes & Learning Outcomes

UNSW graduate attributes (GAs) are developed through UNSW Law program learning outcomes (PLOs) and the course learning outcomes (CLOs) of individual courses.

<table>
<thead>
<tr>
<th>GAs</th>
<th>A UNSW graduate is expected to attain these attributes</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLOs</td>
<td>A UNSW Law graduate is expected to achieve these outcomes</td>
</tr>
<tr>
<td>CLOs</td>
<td>A graduate of a specific course is expected to achieve these outcomes</td>
</tr>
</tbody>
</table>

**UNSW Graduate Attributes**

UNSW aspires to develop graduates who are rigorous scholars, capable of leadership and professional practice in a global community. More information on the UNSW-wide Graduate Attributes is available at: https://my.unsw.edu.au/student/atoz/GraduateAttributes.html

**Program Learning Outcomes**

These are the Program Learning Outcomes (PLOs) for the main undergraduate law degree. (They do not apply in full or directly to General Education courses such as this, but are included to indicate the nature of professional development which legal education aims to deliver. Gen Ed students will have appreciated the importance of these knowledge and skills for legal and regulatory professionals, and made progress towards developing some of them to the degree appropriate to their prior background.):

**Knowledge**
Graduates of UNSW Law will understand and appreciate:

1. Legal knowledge in its broader contexts
2. Indigenous legal issues
3. Principles of justice and the rule of law

**Analytical Skills**
Graduates of UNSW Law will have developed the skills of:

4. Statutory interpretation and analysis
5. Legal reasoning
6. Legal research and writing
7. Reform-oriented analysis of law and policy
8. Application of interdisciplinary perspectives to legal issues
**Professional Skills**

Graduates of UNSW Law are professionals with:

9. Communication skills
10. Interpersonal skills
11. Professional and ethical dispositions and values
12. Capacities for self-management

**Course Learning Outcomes**

Students successfully completing this course will be able to:

1. demonstrate the ability to analyse and identify which relevant legal issues are raised by media coverage of online issues (PLO 1)

2. read, identify the components of and summarise the relevance of a judgment in a dispute (a 'case') (PLO 6)

3. examine the principles governing an area of law in one topic covered by the course, and apply these to hypothetical fact scenarios (PLO 5)

4. demonstrate effective written communication skills evidenced by: (1) a concise writing style; (2) constructing arguments supported by doctrinal disciplinary knowledge, and interdisciplinary and policy perspectives (appropriate for their non-law background); and (3) referencing a range of legal and interdisciplinary research sources using legal citation' (PLOs 6, 8, 9)
2 ASSESSMENT

2.1 Assessment Scheme

Assessment for this course comprises three components:

<table>
<thead>
<tr>
<th>Assessment</th>
<th>Due/ Details</th>
<th>% Mark</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class participation</td>
<td></td>
<td>10</td>
</tr>
<tr>
<td>Mid-session assignment</td>
<td>Handed out Week 3, due week 9</td>
<td>30</td>
</tr>
<tr>
<td>Final assignment</td>
<td>Due end of week 12.</td>
<td>60</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

**Assessment Description**

The three components are participation, a briefing note and a short problem-style research essay; there is also an online alternative to the latter. Both assignments need a cover sheet, from the law office or site.

**10% participation** – This is on the basis of attendance, preparation and well informed participation in discussions.

Students **must attend a minimum of 80% of classes** to be eligible to undertake assessment in this course. Assessable class participation is designed to:

- encourage preparation for class
- encourage students to learn, think, analyse, reflect and evaluate legal material prior to covering that content in class
- assist students to develop the capacity to think clearly and to present oral arguments

It is also believed that as students will necessarily put much effort into class preparation, it is fair that they receive some reward for this work.

**30% Case study** – submission of a short (one page) **Briefing Note** on a relevant case decision, to be allocated from a Case studies list to be provided in class and posted here.

Each student will be allocated a case from a list and provided with some background information. The list of possible cases is available from week 3, and the Briefing Note must be submitted by the **end of Week 9**.

There is a page explaining how to write such a case study.

You can choose your own case not on the list, but you must request to do this in writing, with the name and date of the case decision, the court and jurisdiction, and a working link the full text of the decision and reasons.

**60% Research Essay** of 3,000 words

The essay is typically an opportunity to provide advice to someone about how to deal with a hypothetical problem they have in the cyberlaw area, as if you are their legal advisor. You will need to refer to materials on a specific course topic, including cases or laws. A selection of Essay Topics will be available, or you can select your own topic with prior approval from the course coordinator. The essay page also has notes about how to do the assignment.

Submit the essay by the **end of Week 12** (4pm on Friday).
Wiki page

An alternative to the essay is:

(a) an analysis of the Wikipedia Featured Article standard
<http://en.wikipedia.org/wiki/Wikipedia:Featured_article_criteria> compared to ordinary Wikipedia content (especially its unsuitability as a reference as to the truth of its contents) and,

(b) a new Wikipedia page on an aspect or case in Cyberspace law which is a viable candidate for Featured Article status.

Please discuss with the lecturer if you are interested. This is not an easier option!

Class participation

Students must attend a minimum of 80% of classes to be eligible to undertake assessment in this course. Assessable class participation is designed to:

- encourage preparation for class
- encourage students to learn, think, analyse, reflect and evaluate legal material prior to covering that content in class
- assist students to develop the capacity to think clearly and to present oral arguments

It is also believed that as students will necessarily put much effort into class preparation, it is fair that they receive some reward for this work.

2.2 Assessment Criteria and Overall Grading

Criteria

The main criteria upon which you will be examined in any of your assessment tasks is evidence of depth of thinking. Depth of thinking is the extent to which you are able to proceed past the descriptive and into critical ways of thinking. This involves your ability to analyse, synthesise, abstract and generalize the central principles and themes of cyberspace law. The basic levels of thinking (from shallow to deep) may be summarised as: knowledge, comprehension, application, analysis, synthesis and evaluation.

Marks in the problem question will be awarded reflecting the level of overall achievement across the following areas (where appropriate, and taking into account the limited legal background brought to the course):

- legal classification skills;
- application of law to particular fact scenarios;
- appropriate citation of the relevant statutory section/case;
- likely and alternate interpretation of fact situations;
- evaluation of the merits of the case overall, and of the constituent elements;
- reflection on legal strategy and difficulties of proof/interpretation;
- clear organisation of the legal analysis;
- clarity of expression and cogency of arguments

The nature of the problem question dictates what emphasis should be given to these variables, given the fact situation presented.

Grading

UNSW Law uses the following grading system, which is consistent with the criteria as set out above.
High Distinction [85% and over]: demonstrates an extensive understanding of the concepts of the unit of study content and the commensurate high order ability to analyse and evaluate the law, policy goals and the broader legal, economic and social context in which cyberspace law operates.

Distinction [75% to 84%]: demonstrates a thorough understanding of the concepts of the unit of study content and the unambiguous ability to analyse and evaluate the law and policy goals in the context in which cyberspace law operates.

Credit [65% to 74%]: demonstrates a sound understanding of the concepts of the unit of study content and the unambiguous ability to analyse and evaluate the law and policy goals in the context in which cyberspace law operates.

Pass [50% to 64%]: demonstrates a basic understanding of the concepts of the unit of study content and has some demonstrated ability to analyse and evaluate the law and policy goals in the context in which cyberspace law operates.

Fail [less than 50%]: demonstrates insufficient understanding of the concepts of the unit of study content AND/OR fails adequately to demonstrate ability to analyse and evaluate the law and policy goals in the context in which cyberspace law operates.

2.3 Assessment Timetable – Links to Learning Outcomes

<table>
<thead>
<tr>
<th>Timetable</th>
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</thead>
<tbody>
<tr>
<td>Assessment Type</td>
</tr>
<tr>
<td>Class Participation</td>
</tr>
<tr>
<td>Case summary</td>
</tr>
<tr>
<td>Essay - hypothetical</td>
</tr>
</tbody>
</table>

2.4 Formal Matters Relating to Assessment

Procedures for submission of assignments

There are two main options for assignment submission:

Assignments may be submitted, subject to advice in class about the transition to Moodle, via Turnitin in Moodle. To submit assignments via Turnitin please follow the instructions here: For Moodle http://teaching.unsw.edu.au/moodle-students-turnitin

OR

Assignments are to be submitted via the Assignment Box located at the Student Services Office, Level 2 Law Building, law@unsw.edu.au, 02 9385 2227. The Assignment Box is cleared daily at 9 am and 4 pm. After 4 pm the work will be cleared and date stamped by administrative staff on the following working day. You must complete and sign a cover sheet when submitting assignments. The Assignment Cover Sheet is available at http://www.law.unsw.edu.au/current-students/my-academic-life/forms. Please read the below information carefully before submitting an assignment.
• Submission via email. Only available by prior written consent – must include a scanned, signed coversheet; must include name, student number and details about the assignment on the document, etc

Assessment Policy
Information produced by the UNSW LAW School regarding assessment is available at: http://www.law.unsw.edu.au/current-students/my-academic-life/assessment. Please be aware of the following in particular:

Class Attendance
Regular attendance at classes is expected. UNSW Law places great emphasis on the idea that participation in the classes is crucial for learning the law. We use seminar-style learning and teaching methods, so you have many opportunities to participate in class discussions. By being present and active in class, you will learn more.

There is a requirement that students attend a minimum of 80% of classes in each course. A student who does not attend at least 80% of classes may be refused the right to sit the final exam or to submit the final assignment, unless they can provide adequate reasons to explain absences. Student Services will send an email to students at risk of being refused final assessment. A student who is to be refused the right to final assessment will be notified by registered mail.

For students in intensive courses the attendance requirement is 100%.

Late Work
Penalties will apply for any work submitted after the due date and time unless you have obtained an extension prior to the date for submission. The penalty applied will be 10% of the available marks for that assignment for each day or part thereof that the essay is late, up to a maximum of 50% penalty. No work will be accepted once papers have been returned to other students.

Word Limits
Strict word limits will apply to all assessed work. In calculating the number of words, all text, footnotes (including citations of references), tables, and appendices will be included. The bibliography will not be included in the word limit.

Penalties will apply to assessed work which exceeds the word limit as follows:
• Exceeds by up to 10% — no penalty;
• Exceeds by 11-30% — 10% of the available marks for that assignment;
• Exceeds by more than 30% — 20% of the available marks for that assignment.

Alternatively, the marker may assess only the permissible number of words, and disregard any excess words.

Marking
Your teachers are committed to ensuring that all marking is fair and comparable across all class groups. The main mechanism for ensuring fairness is that teachers will work towards producing similar marking profiles for all classes. In addition, any students in danger of failing will have their work double-marked.

If you have questions about your assessment, the first step is to re-read your work in the light of the marker’s comments and feedback. You may then contact your lecturer to discuss your work and to request further feedback.

If you are still dissatisfied, you may discuss your work with the Course Convenor. To apply for a mark to be reviewed you must follow the UNSW policy. See the following website for further details: https://my.unsw.edu.au/student/academiclife/assessment/Results.html

Illness, Misadventure and Special Consideration
If your performance is affected by illness or misadventure you should notify your teacher as soon as possible, preferably with a medical certificate or other documentary evidence of your special circumstances.
If you miss a class through illness or misadventure, you should provide documentation to your teacher at the soonest opportunity.

If your performance in assessments is affected by illness or misadventure, you should notify your teacher and the course convenor, and submit a Special Consideration request form. The process and form is available at: https://my.unsw.edu.au/student/atoz/SpecialConsideration.html

**Workload**

You are expected to read the assigned readings prior to each class; the readings assigned for each class will be found in this course guide.

The course is a 6 credit point general education subject taught in intensive mode. The overall time commitment expected of students is the same as for a 6 credit point subject taught in normal mode over a semester.

Students are expected to commit at least 92 hours to the subject, including lectures. This will involve 36 hours of lecture time and at least:

- 8 hours class preparation time;
- 12 hours completing the case study; and
- 36 hours completing the research essay.

**Feedback**

UNSW Law appreciates the need for students to have feedback on their progress prior to the last date for withdrawal without failure. All courses will therefore provide feedback to students prior to this date, as well as throughout the course. However, students should note that feedback does not take the form only of formal grades and written comments on written assessments. Rather, formative feedback, which helps students to self-assess, to identify misunderstandings, and to identify areas requiring further work, will occur during class. For example, where a lecturer asks the class a question, all students should think about how they might answer. Even though not all students will necessarily be able to respond orally, everyone can reflect on their tentative answer in light of the lecturer’s response and subsequent class discussion. If you are struggling to understand what is being asked in class, or if your tentative answers prove incorrect and subsequent discussion does not clear things up, then you should continue to ask questions (of yourself, your peers or your lecturer). Similarly, you can get a sense of your ability in a course through peer feedback during group work, your lecturer’s responses to your in-class contributions, and your own response to in-class problems and examples (whether or not you are called on to relay your answer to the class).

In this course, feedback will include discussion in class and by comment on assignments about how well your contributions fit with expectations about adapting to the legal and regulatory approach to thinking about online activities, and with academic standards in relation to references and sources.

**Academic Misconduct & Plagiarism**

All essays and assignments must be accompanied by the UNSW Law assignment cover sheet, which includes a declaration regarding academic misconduct.

It will be assumed that you are thoroughly familiar with the policies of UNSW and UNSW Law regarding academic misconduct and plagiarism. Ignorance of the rules is not an acceptable defence against an allegation of misconduct. See the following website for further details https://my.unsw.edu.au/student/academiclife/assessment/AcademicMisconduct.html.
3 COURSE MATERIALS AND READING GUIDE

3.1 Course Materials

The course Web home page is currently http://cyberlawcentre.org/genl2032/

[Note that materials are being transitioned onto Moodle in 2013 - check in class.]

Required materials:

There is no text book for the course. Reading guides for each topic are available on line from the Cyberlaw course materials web site, linked from the course page above.

(This is a secure site for students only: username and password is provided in class, or by email.)

Note that, as this is not available for access outside the course, these reading guides should not be considered a normal publication for referencing purposes.

You should cite the published and accessible sources that are linked from within each paragraph or section, or another published source, not the notes themselves. (If you do quote from these notes, they should of course be properly referenced, but this is not preferred; the preferred approach is always to rely on published sources.)

A useful introduction to the legal system for those with no prior understanding:

- *Understanding the Australian Legal System*, John Carvan, LawBook Co 2005 or later (University bookshop or library), or similar.

**Recommended texts and materials:**

The source is the online guide above. For students wishing to consider additional materials, the following may be of interest, particularly the first:

- Cyberspace Law and Policy Centre at UNSW Law http://www.cyberlawcentre.org/ (may have material for certain topical issues)

3.2 Reading Guide

A detailed list of the reading for this course will be available on the course web site and/or Moodle before the start of semester.
4 ADDITIONAL RESOURCES FOR STUDENTS

UNSW and the Law School are committed to providing study and welfare services to support you during your enrolment. A complete list of services and contact details is available at http://studentlife.unsw.edu.au/services/.

Notice on Distressing Course Material
There may be times when you may become distressed as a result of studying the material in your course. If that is the case you may wish to contact the, free and confidential, Counselling & Psychological Service at the University directly on 9385 5418 or www.counselling.unsw.edu.au, or speak to your lecturer who may assist you to contact this service.

Student Equity and Disabilities Unit
If you who have a disability that requires some adjustment in your teaching and learning environment, you should discuss your study needs before the beginning of the course with the Equity Officer in the Student Equity and Disabilities Unit (SEADU). Issues discussed may include access to materials, signers or note-takers, the provision of additional services, and alternate exam and assessment arrangements. SEADU are experts in both the analysis of different kinds of disabilities and their impacts, so they are in a good position to design adjustments to the teaching and learning environment. You need to be registered with SEADU in order for these adjustments to be put in place. SEADU will give you a letter outlining these adjustments which you then pass on to your lecturer and course convenor. More information and contact details are available at www.studentequity.unsw.edu.au.

Occupational Health & Safety
UNSW is dedicated to ensuring a safe and healthy working and learning environment. Information on student safety is available at http://www.ohs.unsw.edu.au/ohs_students/index.html and a full list of OHS policies is available at http://www.ohs.unsw.edu.au/ohs_policies/

Student Services
For all administrative matters in relation to your course please contact the Student Services, Level 2, Law Building, open Monday, Tuesday, Thursday and Friday 10am–4pm and Wednesday 10am–1pm. You may also email law@unsw.edu.au or telephone (02) 9385 2227.
5 CONTINUAL COURSE IMPROVEMENT

5.1 CATEI Evaluation Policy

Student feedback is very important to continual course improvement. This is demonstrated within the School of Law by the implementation of the UNSW Course and Teaching Evaluation and Improvement (CATEI) Process, which allows students to evaluate their learning experiences in an anonymous way. The resulting evaluations are ultimately returned to the course Convenor, who will use the feedback to make ongoing improvements to the course.

5.2 Course Evaluation and Quality Enhancement for this Course.

The surveys administered in 2011 as part of the CATEI process revealed that overall students were keen to address the implications of social networking and user generated content, rather than just traditional publishing categories. As a result of these findings, the following changes were made to the course: it was expanded and adapted to include specific references to such issues, and the majority of examples discussed in class now focus on them.