

**LCR406W**

( 493106) October/November 2010

**MEDIA LAW**

Duration 2 Hours

100 Marks

EXAMINERS

FIRST

SECOND

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This examination question paper consists of 6 pages plus instructions for the completion of a mark reading sheet

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THE QUESTIONS IN THIS PAPER COUNT A HUNDRED (100) MARKS. THE PAPER CONSISTS OF TWO (2) PARTS, MARKED A AND B YOU MUST ANSWER BOTH PARTS A AND B PART A CONSISTS OF TEN MULTIPLE CHOICE QUESTIONS. EACH QUESTION COUNTS THREE (3) MARKS, WHICH MEANS THAT THE QUESTIONS IN PART A COUNT A TOTAL OF THIRTY (30) MARKS. IN PART B, THE ANSWERS TO THE QUESTIONS MUST BE WRITTEN IN THE EXAMINATION SCRIPT ITSELF THE QUESTIONS IN PART B COUNT SEVENTY (70) MARKS

**PART A (MULTIPLE CHOICE QUESTIONS)**

**IMPORTANT NOTICE** THE QUESTIONS IN THIS PART HAVE TO BE ANSWERED ON THE MARK READING SHEET WHICH WILL BE ISSUED WITH YOUR EXAMINATION ANSWER BOOK YOU HAVE TO READ THE INSTRUCTIONS IN CONNECTION WITH THE USE OF THE MARK READING SHEET CAREFULLY. FAILURE TO DO SO MAY MEAN THAT YOUR ANSWERS CANNOT BE MARKED BY THE COMPUTER

Ten questions (marked 1-10) follow Each question contains three (3) statements (marked (a)-(c)) Some of the statements are correct and some are incorrect You must decide which of these statements is/are correct. The three statements are followed by five (5) allegations (marked (1)-(5)) Each of them alleges that a certain statement or combination of statements is correct You must decide which allegation accurately reflects the conclusions to which you have come.

Also bear in mind that if a composite statement is partly correct and partly incorrect, then the statement as a whole, is incorrect

**[TURN OVER]**

**Question 1**

- (a) When an individual decides not to read a specific book because he finds the content morally unacceptable, it is called autonomous censorship
- (b) *A priori* censorship is as a general rule always applicable to both the film and press industry in South Africa
- (c) Punitive censorship is the form of control applied to pornographic publications in terms of the Films and Publications Act 65 of 1996
- (1) Only statement (a) is correct  
 (2) Only statement (b) is correct  
 (3) Only statement (c) is correct  
 (4) Only statements (a) and (b) are correct  
 (5) Only statements (a) and (c) are correct

**Question 2**

In terms of chapter 3 of the Electronic Communications Act of 2005, service providers must obtain either an *individual* or a *class* licence or be *exempt* from licensing. The Act lists examples of licences in each of the categories and the period of validity of the various licences.

- (a) An individual broadcasting-services licence for a commercial free-to-air television broadcasting service will be valid for 15 years
- (b) An individual broadcasting-services licence for a subscription broadcasting service will be valid for 15 years
- (c) A class broadcasting-services licence for a community television broadcasting service will be valid for 15 years
- (1) Only statements (a) and (b) are correct  
 (2) Only statements (b) and (c) are correct  
 (3) Only statements (a) and (c) are correct  
 (4) All the statements are correct  
 (5) All the statements are incorrect

**Question 3**

An advertiser refuses to abide by the code of conduct of the ASA (Advertising Standards Authority)

- (a) The ASA notifies its members not to accept any further advertising from such an advertiser
- (b) The ASA may impose a pre-clearance requirement on such an advertiser
- (c) The names of advertisers who have contravened the code of conduct of the ASA appear in the three monthly magazine, *Rulings and Reasons*
- (1) Only statements (a) and (b) are correct  
 (2) Only statements (a) and (c) are correct  
 (3) Only statements (b) and (c) are correct  
 (4) None of the above statements are correct  
 (5) All of the above statements are correct

**Question 4**

- (a) A journalist writing a report on specific judicial proceedings may quote documents filed with the registrar or clerk of the court only if they have been used or reference has been made to them in open court
  - (b) Where the court has placed a prohibition on the publication of proceedings of a criminal court, the public does not have access to the record of the court proceedings dealing with that part of the proceedings
  - (c) There is a blanket prohibition on the publication of information identifying a witness under 18 years of age who has to testify in criminal proceedings dealing with an indecent act
- (1) All the above statements are correct
  - (2) Only statements (a) and (b) are correct
  - (3) Only statements (a) and (c) are correct
  - (4) Only statements (b) and (c) are correct
  - (5) Only statement (a) is correct

**Question 5**

X is accused of extortion. He is afraid that his good name will be injured and asks the judge to prohibit the public from attending the court proceedings. The judge allows his request.

- (a) The conduct of the judge is correct because in terms of section 153(3) of the Criminal Procedure Act of 1977 an accused may direct such a request in cases of extortion or the statutory offence of demanding some advantage which was not due
  - (b) The conduct of the judge is correct because section 153(2) of the Criminal Procedure Act of 1977 allows a judge to exclude the public from court proceedings if it is probable that someone may be harmed
  - (c) The conduct of the judge is incorrect because such a request cannot be granted on request of an accused
- (1) Only statement (a) is correct
  - (2) Only statement (b) is correct
  - (3) Only statement (c) is correct
  - (4) Only statements (a) and (c) are correct
  - (5) Only statements (b) and (c) are correct

**Question 6**

- (a) The Bill of Rights does not contain a hierarchy of values in respect of the various fundamental rights
  - (b) The term "justifiability" can be determined only after the meaning of the characteristics of human dignity, equality and freedom have been considered
  - (c) The fact that a right is acknowledged in the Bill of Rights means that every aspect of that right is now determined constitutionally
- (1) Only statement (a) is correct
  - (2) Only statement (b) is correct
  - (3) Only statement (c) is correct
  - (4) Only statements (a) and (b) are correct
  - (5) Only statements (a) and (c) are correct

**[TURN OVER]**

**Question 7**

In terms of chapter 3 of the Electronic Communications Act of 2005, service providers must obtain either an *individual* or a *class* licence or be *exempt* from licensing. The Act lists examples of licences in each of the categories, namely, individual, class or exempt.

- (a) Services requiring individual licences include commercial broadcasting and public broadcasting of a national or provincial scale, whether free-to-air or subscription.
  - (b) Services requiring class licences include community broadcasting whether free-to-air or subscription.
  - (c) Services that are exempt from licensing include private communication networks where excess capacity is not resold.
- (1) Only statements (a) and (b) are correct
  - (2) Only statements (b) and (c) are correct
  - (3) Only statements (a) and (c) are correct
  - (4) All the statements are correct
  - (5) All the statements are incorrect

**Question 8**

- (a) In *De Reuck v Director of Public Prosecutions, Witwatersrand Local Division, and others* 2003 (1) SACR 448(W) the court held that section 27(1) of the Films and Publications Act 65 of 1996 is not unconstitutional since the purpose of the Act is to curb child pornography.
  - (b) In both *R v Sharpe* (2001) 194 DLR (4th) (Canadian case), as well as *Ashcroft v Free Speech Coalition* 198 F3d 1083 (2002) (US Supreme Court), it was held that legislation prohibiting virtual child pornography was unconstitutional.
  - (c) In *Nel v Le Roux NO and Others* 1996 (4) BCLR 592 (CC) the court held that section 205 of the Criminal Procedure Act of 1977, in terms of which a person may be ordered to appear before a court to provide information, is not unconstitutional.
- (1) Only statements (a) and (b) are correct
  - (2) Only statements (a) and (c) are correct
  - (3) Only statements (b) and (c) are correct
  - (4) None of the above statements are correct
  - (5) All of the above statements are correct

**Question 9**

- (a) The commissioner presiding at the proceedings of a children's court has the discretion to grant permission to anyone to attend the proceedings.
  - (b) If a court has ordered that a case in criminal proceedings be heard *in camera* this order will never be retracted or relaxed.
  - (c) A maintenance court investigates cases where someone is legally obliged to support another person or persons.
- (1) Only statement (a) is correct
  - (2) Only statement (b) is correct
  - (3) Only statements (b) and (c) are correct
  - (4) Only statements (a) and (b) are correct
  - (5) Only statements (a) and (c) are correct

**[TURN OVER]**

**Question 10**

In *S v Mamabolo (E TV, Business Day and the Freedom of Expression Institute Intervening)* 2001 (5) BCLR 449 (CC) the Constitutional Court found that using the summary procedure to punish contempt in the form of scandalising the court where it had occurred *ex facie curiae*, infringed the provisions of a fair trial as set out in section 35(3) of the Constitution. The following were some of the reasons given for its conclusion:

- (a) There was no formal plea procedure
- (b) Particulars of the charge sheet could not be requested
- (c) There was no inquisitorial process
- (1) All the statements are correct
- (2) All the statements are incorrect
- (3) Only statements (a) and (b) are correct
- (4) Only statements (b) and (c) are correct
- (5) Only statements (a) and (c) are correct

**[30]****SECTION B****QUESTION 1**

Write brief notes on FOUR (4) of the following:

- (a) The obligations which section 107 of the Electoral Act 73 of 1998 places on a publisher who publishes an election article in a newspaper
- (b) Requirements that have to be fulfilled in terms of the Correctional Services Act 111 of 1998 should a reporter wish to write an article on prisoners and prison life
- (c) The requirements for passing-off
- (d) Contempt of the Public Protector
- (e) The crime of "espionage" as set out in the Protection of Information Act 84 of 1982
- (f) The courts' definition of a newspaper

4X5 (20)  
**[20]****[TURN OVER]**

**QUESTION 2**

- 2 1 The right to freedom of expression is guaranteed in terms of section 16 of the Constitution. Discuss the content and extent of this right. Do not merely quote section 16 *verbatim*. (14)
- 2 2 The Film and Publications Act 65 of 1996 gives a definition for a publication and one for a film. In terms of these definitions, would the following be regarded as **publications** or as **films**? Give reasons for each answer.
- (i) the soundtrack of a film
  - (ii) a poster advertising a newly released film
  - (iii) the printed cover of a video
  - (iv) a colour slide depicting a scene from a film
  - (v) graphical pictures on a computer disk
  - (vi) a pictorial advertisement of a film on the Internet
- (6)  
[20]

**QUESTION 3**

- 3 1 Exhibitors, distributors and broadcasters of films should be aware of certain offences created by the Films and Publications Act 65 of 1996. Briefly mention 8 (EIGHT) of these offences. (8)
- 3 2 What is the purpose of the following tribunals? Indicate whether a journalist would be able to claim a general right to attend their proceedings.
- (i) children's courts
  - (ii) maintenance courts
- (4)
- 3 3 X is a printer. For purposes of an international conference on urban development he is employed to print a map of Johannesburg showing the business district and surrounding areas. On this map the street names as well as the most important buildings are indicated. It also indicates where the various water reservoirs, arms storage centres and an uranium enrichment research laboratory are situated. X fears that the printing of this map might be a contravention of the National Key Points Act 102 of 1980. Advise X in this regard. Give reasons for your answer.
- 3 4 X is suspected of being involved in various activities of a crime syndicate. May an officer of the South African Police Service direct Telkom to intercept the telephone calls of X and record these on tape? Discuss fully by referring to the Regulation of Interception of Communications and Provisions of Communication-Related Information Act 70 of 2002. (10)  
[30]

**TOTAL: [100]**

**PART 1 (GENERAL/ALGEMEEN) DEEL 1**

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EXAMINATION CENTRE (E.G. PRETORIA)  
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For use by examination invigilator  
 Vir gebruik deur eksamenopsiener

- IMPORTANT**
- USE ONLY AN HB PENCIL TO COMPLETE THIS SHEET
  - MARK LIKE THIS
  - CHECK THAT YOUR INITIALS AND SURNAME HAS BEEN FILLED IN CORRECTLY
  - ENTER YOUR STUDENT NUMBER FROM LEFT TO RIGHT
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- BELANGRIK**
- GEBUIK SLEGS N HB POTLOOD OM HIERDIE BLAD TE VOLTOOI
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**PART 2 (ANSWERS/ANTWOORDE) DEEL 2**

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Specimen only

## MARK READING SHEET INSTRUCTIONS

Your mark reading sheet is marked by computer and should therefore be filled in thoroughly and correctly

**USE ONLY AN HB PENCIL TO COMPLETE YOUR MARK READING SHEET**

*PLEASE DO NOT FOLD OR DAMAGE YOUR MARK READING SHEET*

Consult the illustration of a mark reading sheet on the reverse of this page and follow the instructions step by step when working on your sheet

Instruction numbers ① to ⑩ refer to spaces on your mark reading sheet which you should fill in as follows

- ① Write your paper code in these eight squares, for instance

P	S	Y	1	0	0	-	X
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- ② The paper number pertains only to first-level courses consisting of two papers

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 for the first paper and 

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 for the second. If only one paper, then leave blank

- ③ Fill in your initials and surname
- ④ Fill in the date of the examination
- ⑤ Fill in the name of the examination centre
- ⑥ WRITE the digits of your student number HORIZONTALLY (from left to right). Begin by filling in the first digit of your student number in the first square on the left, then fill in the other digits, each one in a separate square
- ⑦ In each vertical column mark the digit that corresponds to the digit in your student number as follows [-]
- ⑧ WRITE your unique paper number HORIZONTALLY  
NB Your unique paper number appears at the top of your examination paper and consists only of digits (e.g. 403326)
- ⑨ In each vertical column mark the digit that corresponds to the digit number in your unique paper number as follows [-]
- ⑩ Question numbers 1 to 140 indicate corresponding question numbers in your examination paper. The five spaces with digits 1 to 5 next to each question number indicate an alternative answer to each question. The spaces of which the number correspond to the answer you have chosen for each question and should be marked as follows [-]
- ◆ For official use by the invigilator. Do not fill in any information here