

**Tutorial letter 101/3/2012**  
**LCR4803**  
**for module, Media Law**  
**Semester 1 and 2**

**Criminal and Procedural  
Law**

This tutorial letter contains important  
information about your module.

Bar code

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## 1. INTRODUCTION AND WELCOME

We would like to welcome you as students to this interesting subject. We trust that you will find the course stimulating and that it will broaden your knowledge of the law considerably.

Although studying through Unisa is by means of long-distance education, we do not want this to restrict contact between us. Should the need arise, you should therefore feel completely free to discuss your problems with us - either in person or by other means. We can assure you that from our side we shall do our best to make your studies of this module successful. However, you should also do your part by starting your studies early in the year and by doing the assignment.

You will receive a number of tutorial letters during the year. A tutorial letter is our way of communicating with you about teaching, learning and assessment.

Tutorial Letter 101 contains important information about the scheme of work, resources and assignments for this module. We urge you to read it carefully and to keep it at hand when working through the study material, preparing the assignment(s), preparing for the examination and addressing questions to your lecturers.

Please read Tutorial Letter 301 in combination with Tutorial Letter 101 as it gives you an idea of generally important information when studying at a distance and within a particular College.

In Tutorial Letter 101, you will find the assignments and assessment criteria as well as instructions on the preparation and submission of the assignments. This tutorial letter also provides all the information you need with regard to the prescribed study material and other resources and how to obtain it. Please study this information carefully and make sure that you obtain the prescribed material as soon as possible.

We have also included certain general and administrative information about this module. Please study this section of the tutorial letter carefully.

Right from the start we would like to point out that **you must read all the tutorial letters** you receive during the year **immediately and carefully** – they always contain important and, sometimes, urgent information.

**The code of this module is LCR4803 and it is a semester module. This means that students registering for the first semester will write their examinations in May/June 2012 and for those students who are registering for the second semester, you will write your examinations in October/November 2012. Should you qualify for a supplementary or an aegrotat examination you will be able to write it in the next semester.**

We hope that you will enjoy this module and wish you all the best!

## 2. LECTURERS AND CONTACT DETAILS

All queries that are not of a purely administrative nature **but are about the contents of this module** should be sent to us. Please have your study material with you when you contact us by telephone.

**Letters** should be sent to:

The Lecturer (LCR4803)  
Department of Criminal and Procedural Law  
PO Box 392  
UNISA  
0003

Letters may also be **faxed** to us.

Our telefax number is: (012) 429-3396.

You may also contact us **by telephone** at the following numbers:

Prof T Deane           (012) 429 8407  
Adv TL Mabusela      (012) 429 8433

Please phone between 07:45 and 13:00, because lecturers might not be available on campus later than 13:00. If a lecturer is not available, messages can be left on the answering machine. Should you make use of the telephone answering machine facilities, please ensure that you speak slowly and clearly. Quite often the messages are so indistinct or blurred that calls cannot be returned. If you do not receive a return call within a day or two, please phone again, because it could be that your message was inaudible and your call could therefore not be returned.

You are welcome to visit us to discuss any queries about or problems with the module or the content of the study material. However, **please make an appointment beforehand**, otherwise you run the risk of the lecturer not being available to see you. Our offices are on the 8<sup>th</sup> floor of the Cas van Vuuren Building, Main Campus, Muckleneuk Ridge, Pretoria. Our office numbers are as follows:

Prof T Deane           Cas Van Vuuren Building 8-14  
Adv TL Mabusela      Cas Van Vuuren Building 8-12

Students who have access to the Internet may contact us by means of **e-mail** at the following addresses:

Prof T Deane           [deanet@unisa.ac.za](mailto:deanet@unisa.ac.za)  
Adv TL Mabusela      [mabustl@unisa.ac.za](mailto:mabustl@unisa.ac.za)

**PLEASE NOTE:**      **Letters to lecturers may not be enclosed with or inserted into assignments.**

### 3. MODULE RELATED RESOURCES

#### 3.1 PRESCRIBED BOOKS

There is no prescribed textbook for Media Law for this year.

#### 3.2 ELECTRONIC RESERVES (E-RESERVES)

There are no E-Reserves for this module.

#### 3.3 RECOMMENDED BOOKS

The only other books that cover more or less the same material as your study guide are mentioned below. However, they are not prescribed or recommended books, because they are largely outdated. Nevertheless, the library has a few copies of these books available, should you wish to consult them.

Burns Y *Media Law* (1990) Butterworths Durban

Strauss SA *Mediareg* 4 ed (1987) by Klopper HB, Van Schaik, Pretoria

Bell, Dewar & Hall *Kelsey Stuart=s The Newspaperman=s Guide to the Law* ed (1990) Butterworths Durban

#### 3.4 READING LISTS

There are no reading lists for this module.

#### 3.5 TUTORIAL MATERIAL

##### 3.5.1 General approach

As there is no suitable textbook available at present for this course, the study guide has been written reasonably comprehensively. Please read study unit 1 of the study guide thoroughly, since it contains a detailed explanation of the working procedure adopted throughout the guide.

##### 3.5.2 Structure/sequence of the work

When looking at the table of contents in your study guide, you will notice that the first part of the guide consists of general introductory discussions of freedom of expression and the right to free speech. These chapters lay the foundation for what follows. Each of the following chapters discusses a specific type of restriction placed on the free dissemination of information. These later chapters are not interrelated and can be studied in any sequence.

##### 3.5.3 Amendment of the study guide

Your study guide refers to the law as it was when the guide was compiled. However, as study guides are prescribed for a number of years, it may be that certain parts are already outdated when you receive it. Right at the beginning of the semester we will send you a tutorial letter with information to update your study guide if necessary. This tutorial letter supplements your study guide and must be pasted into your study guide immediately, as explained. Any changes that occur later in the semester will be brought to your attention in the same way.

#### 3.6 FURTHER TUTORIAL LETTERS

In addition to Tutorial Letter 101, you will receive other tutorial letters for Media Law during the semester in which possible amendments to the study guide and information about the examination are set out, and a tutorial letter, in which the assignment is discussed. It is also possible that additional tutorial letters will be sent out should the need arise, for example to inform you about important new developments in the subject.

**PLEASE NOTE: Tutorial letters are part of your tutorial material for assignment and examination purposes. Read and reread each tutorial letter; keep it for reference purposes, and study it again.**

Students who have access to the Internet, can view the study guides and tutorial letters for the modules for which they are registered on the University's online campus (*myUnisa*) at <http://my.unisa.ac.za>.

## **4. STUDENT SUPPORT SERVICES FOR THE MODULE**

### **4.1 STUDENT COUNSELLING**

A study skills book entitled **EFFECTIVE STUDY** is published by the **Bureau for Counselling, Career and Academic Development (BCCAD)**. It is available in English and can be obtained from **Unisa Press (see details below)**. The publication deals with a variety of topics which are applicable to specific periods during the semester or year. It also contains a screening questionnaire, which will indicate to students in which areas they may expect problems and on which areas they should focus.

To gain maximum advantage from the guidelines given in the publication, it is suggested that you work through the book at the beginning of your studies. After this initial overview, you can consult the sections selectively as your needs emerge. The publication can be used repeatedly by both beginner and experienced students, as it was not only written for students with study problems.

Successful students can also use the guidelines to improve their academic performance.

**Title:** Van Schoor, WA, Mill, EM, & Potgieter, D. 2001. **Effective study**. Pretoria: Unisa Press.  
**How to obtain *Effective Study*?:** You can **order the booklet from Unisa Press**. Only prepaid orders will be accepted. The order form appears in the booklet ***my Studies @ Unisa*** which you have received as part of your study package.

### **4.2 LANGUAGE SUPPORT AT UNISA WRITING CENTRE**

Many of our students do not have their language of tuition (either Afrikaans or English) as their mother tongue. In addition, it has been our experience that most students benefit by measures aimed at improving their reading, writing and communication skills and language proficiency in general.

The **John Povey Centre** and the **Unisa Reading and Writing Centre** offer several courses for second language speakers and also provide various forms of assistance for all students, to help improve their reading and writing skills. **We strongly advise all our students to make use of these services, since every communication student can only benefit from improving their language proficiency.** The Centre has offices at Unisa's Sunnyside Campus and at several Unisa Learning Centres.

### **4.3 TUTOR SUPPORT PROGRAMME AT LEARNING CENTRES**

Unisa Learning Centres have been established at various locations where students may study, have access to library services and obtain general as well as academic support in the form of tutorial support services offered in selected modules. Tutorials given by tutors appointed and trained by the University are presented in Communication Law, depending on student demand and the availability of tutors at the various Learning Centres. The aim is to assist students to become independent, autonomous learners. These services are available on payment of a registration fee.

Students who wish to obtain more information about Learning Centres and tutorial support services should consult the brochure ***my Studies @ Unisa***.

## 5. MODULE SPECIFIC STUDY PLAN

Please refer to *my Studies @ Unisa* brochure for general time management and planning skills.

## 6. ASSESSMENTS

### 6.1 ADMISSION TO THE EXAMINATION

#### STUDENTS MUST SUBMIT TWO ASSIGNMENTS IN ORDER TO BE ADMITTED TO THE EXAMINATION

Please note that there are TWO compulsory assignments for this course. All students who submit the compulsory assignments on time (before or on the date of submission), will be admitted to the examination, regardless of the marks obtained for the assignments. In other words, a student who submitted the assignments but obtained 0% will be allowed to sit for the examination. Such a student will, however, not have a year mark (the mark for the assignments). Students, who do NOT submit the compulsory assignments BEFORE OR ON THE DUE DATE, **will NOT receive admission to write the examination**. The two assignments count a total of twenty percent (20%) towards your exam mark. The calculation of your final examination mark will be done by the Assignments Department and you will receive a mark out of 100.

**Remember**, you have to obtain a **sub-minimum of 40% in the examination** before your year mark can be taken into account. That is, the assignment counts for a total of 20 percent towards your year mark and will, if you obtain an examination mark of at least 40%, make up 20% of your final mark. You thus need to obtain at least 40% in the examination before your year mark can be taken into account.

### 6.2 EXAMINATION PERIOD

This module is offered in a semester period of fifteen weeks. This means that if you are registered for the first semester, you will write the examination in May/June 2012 and the supplementary examination will be written in October/ November 2012. If you are registered for the second semester you will write the examination in October/ November 2012 and the supplementary examination will be written in May/June 2013.

During the module of the semester, the Examination Section will provide you with information regarding the examination in general, examination venues, examination dates and examination times.

### 6.3 EXAMINATION PAPER

At the end of the year you will write **one two (2) hour paper** in LCR4803. The paper counts 100 marks. Your examination mark out of 100 will be converted to a mark out of 80. To your examination mark out of 80 your year mark out of 20 (i.e. your assignment mark) will be added to provide your final mark for this module.

### 6.4 PREVIOUS EXAMINATION PAPERS

**Copies of past examination papers are not available to students.**

You may, however, accept that examination questions will be similar to the questions asked in the activities in your study guide and in the assignments. In the next tutorial letter we will, however, give you further information on the layout of the paper and on preparing for the exam.

For the examination you have to study the study guide, the prescribed cases and articles, as well as all the tutorial letters you receive during the course of the semester.

## 6.5 SUPPLEMENTARY EXAMINATION AND THE YEAR MARK

Please note that should the University grant you a **supplementary examination** for the next semester, **your year mark will not count towards your final mark**. In other words, your examination mark will count 100% of your final mark and you will have to achieve a mark of at least 50% in the supplementary examination to pass this module.

However, this arrangement will not affect students who write the aegrotat (sick) examination in the next semester. In other words, students who for health reasons are unable to write the examination in the semester that they are registered for, and have a medical certificate to prove it, will be in the same position as students who wrote in the previous semester. **Their year mark will constitute 20% of their final mark.**

## 6.6 THE PURPOSE OF THE ASSIGNMENTS

In this module there are **two compulsory assignments per semester** that has to be submitted for marking. **The submission of the assignments is a prerequisite for admission to the examination.** However, obtaining a certain minimum mark for the assignment is not a requirement to be admitted to the examination.

**Please take careful note of the following as well:**

At this stage we want to draw your attention to an important aspect of university policy regarding assignments. The university authorities have decided that **two assignments per semester** in each module must be submitted **for marks that contributes to the final mark for the module**. The main purpose of this new approach is that completion of the assignments must indicate that a student has “studied actively” during the year and before the examination is written. Assignments differ from an examination in the following respects: the examination tests your knowledge, but in an assignment you must prove your ability to deal with the subject matter.

Additional aims of the assignments are to:

- \* guide you progressively through the study material
- \* compel you to study the more important sections of your study guide
- \* teach you the necessary reading skills expected from a future communicator
- \* develop intellectual proficiency such as the skills of analysing and evaluating
- \* develop a critical approach towards the theories, views and findings of others

You can, however, use this new approach to your advantage. By obtaining a high mark for the assignments (which will be attainable if you put in enough effort), you improve your chances of passing the examination.

## 6.7 GENERAL INSTRUCTIONS TO BE FOLLOWED FOR THE ASSIGNMENTS

Study the relevant parts of the study guide as a whole before attempting an assignment. It is pointless to page through the guide in search of the correct answer before you have any notion of the subject as a whole. Also bear in mind that in doing an assignment you are in fact preparing yourself for the examination.

Read each question very carefully. It is even a good idea to underline each important word in the question. Determine which principles are relevant and then decide what the answer should be.

Since the purpose of the assignments is educational and also contributes towards your final mark, you are *kindly requested not to contact your lecturers before the submission date of an assignment in order to ask how a certain question in a specific assignment should be answered*. By obtaining the correct answers in advance, we will have no indication whether you have mastered the work.

Should you encounter problems with questions, you should consult the tutorial letter dealing with the assignments which will be sent to you after the closing date of the assignments. Compare your answers with the commentary in this tutorial letter. Should certain aspects of the work still be unclear at that stage, you are of course welcome to come and discuss them with us.



- Please ensure that your name and address, student number, subject and course, and assignment number are stated clearly on each assignment. **This information must be correct or it may result in your assignments not being marked.**
- Remember that your assignments must bear precisely the same number as that given in this tutorial letter. Specify the course code and assignment number in all enquiries about assignments.
- Do not include any letters to lecturers in your assignments, because they will inevitably take longer to reach the specific lecturer.

### 6.7.1 MULTIPLE-CHOICE QUESTIONS AND MARK-READING SHEETS

- (1) Assignments consisting of multiple-choice questions must be answered on a mark-reading sheet that will be marked by computer. Check that **Unisa** has supplied you with a mark-reading sheet. **Written answers on a sheet of paper will not be marked.**
- (2) You will receive a computer printout giving your answers, the correct answers and your marks for that assignment soon after the closing date of the assignment. Where the correct answer is given as 0 on this printout, it means that the specific question has not been marked because of some or other inherent error in the question. Such a question has not been taken into consideration when awarding marks. No commentary will be given by lecturers on the computer printout. You will, however, receive a detailed printed commentary in a tutorial letter after the closing date for the assignment.
- (3) When submitting this type of assignment you must send **ONLY YOUR MARK-READING SHEET** in an envelope. Do not include a cover sheet with your mark-reading sheet.
- (4) You need not furnish any reasons for your answers.
- (5) Note that there is only one correct answer in each instance. Where more than one option has been marked for a specific answer, you will receive no mark for that particular answer.
- (6) Each correct answer carries one mark. No mark will be awarded for an incorrect answer.
- (7) No marks are given for questions that are left unanswered.
- (8) Each multiple-choice question assignment consists of **ten questions**.
- (9) Instructions on the use of the mark-reading sheets for answering multiple-choice questions are contained in **my Studies @ Unisa**. Read these instructions carefully and adhere to them strictly to avoid unnecessary mistakes.
- (10) Do not submit the assignment a second time. The computer will simply reject it as a duplicate assignment.
- (11) On each mark-reading sheet, fill in the **correct unique number** that is provided for that specific assignment.
- (12) Each year a number of students submit faulty mark-reading sheets. In such cases, the mark-reading sheets cannot be processed by the computer. Sheets that are rejected by the computer are returned to students without being marked, and a student receives no credits for that assignment. **PLEASE FOLLOW THE INSTRUCTIONS CAREFULLY.**

### 6.7.2 GENERAL GUIDELINES WITH REGARD TO THE ANSWERING OF ASSIGNMENTS 02

Assignment 02 consists of direct factual questions or is related to some problem area in the work or it refers to the application of certain legal principles to a hypothetical set of facts. The purpose of the second assignment is to teach you the skills of abstracting the essentials and then succinctly expressing your knowledge. If you are unable to comply with the requirements relating to the length of an answer, the problem lies in your answer and not in the question.

Your answers to the problem type or essay type questions may not exceed 25 typed lines or 250 words.

**Students who do not comply with this limitation on the length of an answer will be penalised by the subtraction of one mark per question concerned.**

Also bear in mind that the 250-word limitation relates to the maximum length of an answer. At times it might be possible to answer a question in only a few words.

Note further that a problemtype question cannot be answered by merely giving a “yes” or “no”. No marks will be awarded in such a case. Here reasons for an answer should always be provided.

In the case of assignment 02 no general introduction or conclusion should be added to your answers. It is also entirely unnecessary and a waste of precious time to give a table of contents or to repeat the question itself. A bibliography may also be omitted.

#### **Answering of problem-type questions**

When answering a problemtype question you should analyse and discuss the problem by applying the applicable legal principles and reaching your own conclusion.

It is recommended that you use the method below, because it will ensure more systematic and logical answers. Where you are not sure about the conclusion to a specific set of facts, you will nevertheless earn marks for the way in which you set out the law.

The method is as follows:

#### **1 Identify the problem**

Very briefly restate the problem in legal terms. In other words, abstract the legal problem from the given facts and state it in your own words. In doing so you will direct your thoughts towards the solution of the problem and at the same time indicate to the lecturer how you intend solving it.

#### **2 State the law**

Do not apply the law at this stage, but merely state it (eg indicate that you understand what legal principles are applicable to the given set of facts).

#### **3 Apply the law**

Apply the principles mentioned above to the facts of the given problem.

#### **4 Conclusion**

Conclude by stating your own opinion and summarising the solution to the problem.

### 6.8 WARNING AGAINST PLAGIARISM

Students often find it rewarding to work in a group when preparing an assignment. Unisa encourages you to work together. However, note that you must give your own interpretation of what you have learnt in a group. Identical assignments by different members of a group are not acceptable. Please note: Although students may work together when preparing assignments, each student must write and submit his or her own assignment. In other words, each student must submit his or her own work. It is unacceptable for students to submit identical assignments on the basis that they worked together. That will amount to plagiarism, and none of these assignments will be marked. Furthermore, these students may be penalised or subjected to disciplinary proceedings by the University.

Although this is not really applicable to the multiple choice question assignment, it may be of value to note the following general explanation. Work copied directly from a prescribed book (or any other source) is also unacceptable and constitutes plagiarism, which is an offence. **Plagiarism is the act of taking words, ideas and thoughts of others and passing them off as your own.** It is a form of theft, which involves certain dishonest academic activities. The *Disciplinary code for students* (2004) is given to all students at registration. Students are advised to study the Code, especially sections 2.1.13 and 2.1.4 (2004:3-4). Kindly read the University's *Policy on copyright infringement and plagiarism* as well.

## 6.9 COMPULSORY AND SELF-ASSESSMENT ASSIGNMENTS

There are **two compulsory assignments per semester and one self-evaluation assignment** for this course. This means that you have to **submit both compulsory assignments** in order to obtain admission to the examination (see 6.1 above). We also include a self-evaluation assignment with commentary on some of the questions which you must do on your own in order to prepare yourself for the examination. **The self-assessment assignment must not be submitted to us for marking.**

The self-assessment assignment: To give you more practice in the answering of questions, a series of self-test questions have been provided at the end of each chapter in your study guide which you can do on your own.

All the questions supplied come from previous examination papers. These self-test questions have been selected to show you some of the possible ways in which a potential examination question can be asked. You can answer these questions after studying a specific chapter to test whether or not you have mastered the contents of the chapter. For some of these questions, we will provide answers and commentaries.

**Please note that the examination questions will not necessarily come from the selection provided.**

Nevertheless, we hope that this approach will help you to be better prepared for the examination. Since these questions will give you adequate practice in answering the different types of questions that may be set in an examination paper a copy of a pro forma examination paper will no longer be provided. You can expect a paper which will contain a variety of questions similar to the examples given.

**Please note that the closing date for each assignment is the date when the assignment must reach Unisa. You must therefore submit your assignment timeously, taking into consideration the time it takes to send it by post.**

## 6.10 COMMENTARIES AND FEEDBACK ON ASSIGNMENTS

You will receive the correct answers automatically for multiple-choice questions. However, commentaries on compulsory assignments **will be sent to all students registered for this module** in a follow-up tutorial letter, and not only to those students who submitted the assignments.

As soon as you have received the commentaries, please check your answers. The assignments and the commentaries on these assignments constitute an important part of your learning and should help you to be better prepared for the next assignment and the examination.

**The commentary on the self-evaluation assignment is included in this tutorial letter.** This will enable you to mark your assignment as soon as you have completed it.

Feedback on *myUnisa* additional assessments will be automated and therefore immediate. Additional work set by tutors will be discussed in class.

We hope that you enjoy this course and we wish you every success with your studies.

Your lecturers

**Prof T Deane  
Adv TL Mabusela**

## **7. ASSIGNMENTS**

### **7.1 COMPULSORY ASSIGNMENTS FOR FIRST SEMESTER STUDENTS**

#### **7.1.1 ASSIGNMENT 01 FOR FIRST SEMESTER STUDENTS**

<b>ASSIGNMENTS – 2012 ASSIGNMENTS FOR FIRST SEMESTER STUDENTS</b>
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#### **FIRST SEMESTER STUDENTS 2012**

These assignments are for those students who have registered for the first semester.

#### **ASSIGNMENT 01 – COMPULSORY ASSIGNMENT**

<b>COURSE CODE:</b>	<b>LCR4803</b>
<b>FINAL CLOSING DATE:</b>	<b>12 March 2012</b>
<b>PRESCRIBED LITERATURE:</b>	<b>Study guide</b>
<b>ADDITIONAL LITERATURE:</b>	<b>Optional</b>
<b>UNIQUE ASSIGNMENT NUMBER:</b>	<b>862445</b>

Ten (10) 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 (3) 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.

Each correct answer counts 1 mark. Read the questions carefully then select only one of the alternative possible answers which you regard as correct. Mark the chosen option (1), (2), (3), (4) or (5) on the mark reading sheet next to the correct number of the question. Also bear in mind that if a composite statement is partly correct and partly incorrect, the statement **AS A WHOLE** is incorrect.

**Question 1**

- (a) In terms of the theory of individual autonomy equal value is attached to, on the one hand, the will, wishes and freedom of the individual and, on the other hand, the rights of the state and community.
  - (b) According to Aristotle the individual can only find happiness in developing and using his or her full potential to the fullest – this means that free speech should be regarded as a basic value because it stimulates such development.
  - (c) In reaction to criticism of the theory on individual self-realisation Scanlon reformulated his theory: in certain instances speech can be validly restricted out of paternalism so that restrictions on, for example, cigarette advertisements would be permissible.
- (1) All the statements are correct.
  - (2) Only statements (a) and (b) are correct.
  - (3) Only statements (b) and (c) are correct.
  - (4) Only statements (a) and (c) are correct.
  - (5) All the statements are incorrect.

**Question 2**

- (a) Punitive censorship is the form of control applied to pornographic publications in terms of the Films and Publications Act 65 of 1996.
  - (b) The Films and Publications Act 65 of 1996 implements a system of only administrative censorship.
  - (c) The Films and Publications Act 65 of 1996 implements a system of only punitive censorship.
- (1) All the statements are correct.
  - (2) Only statements (a) and (b) are correct.
  - (3) Only statements (b) and (c) are correct.
  - (4) Only statements (a) and (c) are correct.
  - (5) All the statements are incorrect. (\*)

**Question 3**

A member of the public who feels dissatisfied with an advertisement in a magazine, may submit a complaint to the body established for this purpose, namely,

- (a) the Community Press Association
  - (b) the Association of Advertisement Agencies
  - (c) the Advertising Standards Authority
- (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 4**

X completes a cinematograph film in South Africa. X is required to do the following:

- (a) register the film in terms of the Registration of Copyright in Cinematograph Films Act 62 of 1977.
- (b) as publisher of the film X is required to forward copies of such film to prescribed places of legal deposit in terms of the Legal Deposit Act 54 of 1997.
- (c) submit the film for prior censorship in terms of the Film and Publications Act of 1996.

- (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 5**

If it has been proved that a holder of a broadcasting licence has not complied with the provisions of the Code of Conduct for Broadcasters, the Independent Communications Authority of South Africa (ICASA):

- (a) may direct such a licensee to desist from any further contravention.
- (b) may direct the licensee to pay a fine
- (c) may find the licensee guilty of a criminal offence

- (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) All of the statements are incorrect.
- (5) All of the above statements are correct.

**Question 6**

- (a) An lithograph done by a well-known artist will be included in the definition of “publication” in terms of the Films and Publications Act of 1996.
- (b) The soundtrack of a cinematograph film will be included in the definition of “film” in terms of the Films and Publications Act of 1996.
- (c) A slideshow on the Kruger National Park will not be included in the definition of “film” in terms of the Films and Publications Act of 1996

- (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 (b) is correct.

**Question 7**

The following case(s) will NOT be regarded by the courts as unlawful competition:

- (a) marketing of a soap powder under the name “Clean Wash” if there is already a product available on the market with the name “Washa Clean”
- (b) opening of chain store with the name “Fortuna” in Pretoria if there is already a chain store with the name Fortuna in Kwa Zulu Natal
- (c) a motorcar advertisement in which a manufacturer X compares his car with the car made by manufacturer Y while referring to CSIR tests to prove his allegations

- (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 8**

According to the Public Protector Act 23 of 1994 information regarding maladministration in the public service may be disclosed if

- (a) the Public Protector has commenced an investigation and the information is derived from evidence given before the Public Protector
  - (b) the information is intended to criticise the Public Protector
  - (c) the Public Protector has laid his six monthly report before Parliament
- (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 9**

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 incorrect because court proceedings should always be in public.
  - (b) The conduct of the judge is incorrect because in terms of section 153(1) of the Criminal Procedure Act of 1977 the public may be excluded from court proceedings if it is in the interest of security of the State, the good order or public morals.
  - (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 10**

In *National Media Ltd v Bogoshi* 1998 (4) SA 1196 (SCA) the court held that where information published in the press was false, it would not be regarded as unlawful if it were to find that it was reasonable to publish the facts in the particular way at the particular time. Factors to be taken into account in order to determine whether the publication is reasonable, includes the following:

- (a) the interest which the public had in the material as opposed to material that was merely interesting to the public;
  - (b) whether the publication related to a political discussion where greater latitude was usually allowed;
  - (c) the tone in which the newspaper article was written.
- (1) All the statements are correct.
  - (2) All the statements are incorrect.
  - (3) Only statements (a) and (b) are correct.
  - (4) Only statements (a) and (c) are correct.
  - (5) Only statements (b) and (c) are correct.

# ASSIGNMENT FOR FIRST SEMESTER STUDENTS

## ASSIGNMENT 02 – COMPULSORY ASSIGNMENT

<b>COURSE CODE:</b>	<b>LCR4803</b>
<b>FINAL CLOSING DATE:</b>	<b>10 April 2012</b>
<b>PRESCRIBED LITERATURE:</b>	<b>Study guide</b>
<b>ADDITIONAL LITERATURE:</b>	<b>See Tutorial letter 101 par 8</b>

Your answer to this assignment should not exceed 2000 words.

### ASSIGNMENT 02

X orders a video, which is not available in South Africa, over the Internet. This video contains two scenes of child pornography. After X received the video, he invites some of his friends over to watch the video with him and charges them an admission fee. The police raid his home and X is charged with contravening the Films and Publications Act of 1974. X approaches you as his lawyer for advice on the following:

- a) Has X committed any offences in terms of the Films and Publications Act of 1974?
- b) X wishes to challenge the constitutionality of this Act due to it invading his right to privacy. Discuss fully. Substantiate your answer by referring to applicable legislation, judgments and the opinions of legal writers.

[20]

(TOTAL = 20)

### 7.2 SECOND SEMESTER COMPULSORY ASSIGNMENTS

#### ASSIGNMENTS – 2012 ASSIGNMENTS FOR SECOND SEMESTER STUDENTS

##### SECOND SEMESTER STUDENTS 2012

These assignments are for those students who have registered for the second semester.

##### 7.2.1 ASSIGNMENT 01 – COMPULSORY ASSIGNMENT FOR SECOND SEMESTER STUDENTS

<b>COURSE CODE:</b>	<b>LCR4803</b>
<b>FINAL CLOSING DATE:</b>	<b>13 August 2012</b>
<b>PRESCRIBED LITERATURE:</b>	<b>Study guide</b>
<b>ADDITIONAL LITERATURE:</b>	<b>Optional</b>
<b>UNIQUE ASSIGNMENT NUMBER:</b>	<b>712000</b>

Ten questions (marked 1-10) follow. Each question contains three 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 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.



**Each correct answer counts 1 mark. Read the questions carefully then select only one of the alternative possible answers which you regard as correct. Mark the chosen option (1), (2), (3), (4) or (5) on the mark reading sheet next to the correct number of the question. Also bear in mind that if a composite statement is partly correct and partly incorrect, the statement AS A WHOLE is incorrect.**

### Question 1

- (a) In terms of Meiklejohn's democracy theory a system of regular and open elections, a general right to vote and majority rule is a necessity.
  - (b) Although John Stuart Mill acknowledged that the truth would not necessarily always prevail when truth and falsehood are in conflict, he attaches great value to free speech because without it, truth would never be able to triumph.
  - (c) According to the American judge Holmes, to falsely shout "fire" in a full theatre while there is no fire, is permissible in terms of the "marketplace of ideas" theory of speech.
- (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) Only statement (a) is correct.
  - (5) None of the statements above are correct.

### Question 2

- (a) When an individual walks out of a cinema halfway through the film because he finds the content of the film 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) Entertainment and plays do not fall under the Films and Publications Act 65 of 1996 -- therefore, they will have absolute artistic freedom and will always be available to the public, even if they contain expressions of hate speech.
- (1) Only statement (a) is correct.
  - (2) Only statement (b) is correct.
  - (3) Only statements (a) and (b) are correct.
  - (4) Only statements (a) and (c) are correct.
  - (5) Only statements (b) and (c) are correct.

### Question 3

A member of the public who feels dissatisfied with an article in a magazine, may submit a complaint to the body established for this purpose, namely

- (a) the Print Media SA
  - (b) the Magazine Publisher's Association
  - (c) the Press Ombudsman.
- (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 4

A imports magazines (produced for the English market) from England to South Africa.

- (a) Copies of these magazine may not be distributed in South Africa unless the name and address of the country of origin is affixed thereto in terms of the Imprint Act of 1993
  - (b) Copies of these magazines must be sent to places of legal deposit in terms of the Legal Deposit Act of 1997.
  - (c) Copies of these magazines need not be sent to places of legal deposit in terms of the Legal Deposit Act of 1997.
- (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) All the statements are correct.
  - (5) All the statements are incorrect.

#### Question 5

The Electronic Communications Act of 2005 lists examples of licences in the categories of *individual licences*, *class licences* and *exempt from licensing* and the period of validity of each:

- (a) An individual broadcasting-services licence for a public free-to-air television broadcasting service will be valid for 15 years.
  - (b) An individual broadcasting-services licence for a public free-to-air sound broadcasting service will be valid for 15 years.
  - (c) A class broadcasting-services licence for a community sound broadcasting service will be valid for 10 years.
- (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

X is a fulltime teacher at a high school and for purposes of the school play, he prints posters that advertise the school play and which are placed at strategic places in the area around the school.

- (a) In terms of the Imprint Act 43 of 1993 X has to print "printed by" followed by his full name and address on the posters.
  - (b) In terms of the judgment in *S v Griffiths (Pty) Ltd and Another* 1974 (1) SA 154 (N) X has to print "printed by" followed by his full name and address on the posters.
  - (c) According to the definition of "printer" in terms of the Imprint Act 43 of 1993 X will not fall under the provisions of this Act.
- (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 7**

The following case(s) will NOT be regarded by the courts as unlawful competition:

- (a) marketing of a toilet soap in a green wrapper with golden triangles printed on the wrapper when there is already a toilet soap on the market in a blue wrapper with similar golden triangles.
  - (b) an allegation in an advertisement that X's grape juice is better than Y's grape juice because the alcohol content is lower. The statement is false.
  - (c) marketing of a soap powder under the name "Clean Wash" if there is already a product available on the market with the name "Washa Clean" .
- (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) All the statements are incorrect.

**Question 8**

According to the Public Protector Act 23 of 1994 information regarding maladministration in the public service may be disclosed if

- (a) the public Protector has already commenced an investigation
  - (b) the Public Protector has commenced an investigation and the investigation is not held *in camera*
  - (c) the Public Protector has commenced an investigation and the information is derived from evidence given before the Public Protector
- (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) All the statements are incorrect.

**Question 9**

X is a reporter. He obtains information from an informer regarding a big theft syndicate and writes an article in his newspaper. The morning the newspaper appears on the street the police contact X and request him to reveal his source of information.

- (a) X can be summoned to appear before a magistrate in order to answer questions.
  - (b) X can refuse to provide any information and can rely on journalistic privilege.
  - (c) The police can arrest X and send him to prison.
- (1) All the 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) All the statements are incorrect.

### Question 10

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 a 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 incorrect because court proceedings should always be in public.
- (1) All the 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) All the statements are incorrect.

## ASSIGNMENT FOR SECOND SEMESTER STUDENTS

### ASSIGNMENT 02 – COMPULSORY ASSIGNMENT

<b>COURSE CODE:</b>	<b>LCR4803</b>
<b>FINAL CLOSING DATE:</b>	<b>10 September 2012</b>
<b>PRESCRIBED LITERATURE:</b>	<b>Study guide</b>
<b>ADDITIONAL LITERATURE:</b>	<b>See Tutorial letter 101 par 8</b>

Your answer to each assignment should not exceed 2 000 words.

#### ASSIGNMENT 02

ABC Company launches an enormous advertising campaign in the daily newspapers and on television to promote its new hybrid, eco-friendly vehicle. In the advertisements the car of ABC Company is compared to that of its competitor XYZ Company, which is a well-known and successful car manufacturer. In the advertisement it is stated that the car of ABC Company is better than the car of XYZ Company as far as price, petrol consumption, road handling ability and performance is concerned.

Discuss in detail the lawfulness of this advertisement by referring to:

- a) the viewpoint of the Advertising Standards Authority,
- b) the common law and
- c) statutory law.

Indicate (in your discussion) whether it would make any difference to the answer if the allegation in the advertisement is false, in contrast to when it is true.

Substantiate your answer by referring to applicable legislation, judgments and the opinions of legal writers.

**[20]**

**8 ANNEXURE****8.1 LIST OF RECOMMENDED BOOKS WITH REQUEST NUMBERS**

LCR4803 2012

When requesting recommended books from the library, please supply **full request numbers** on your request card.

Books supplied subject to availability

\*Limited copies available. If unavailable, please request alternative.

**TITLE****CALLNUMBER**

Communications law

BURN

**AUTHOR****REQUEST NUMBER**

Burns, Y.

12-021264-LCR4803

**8.2 ELECTRONIC RESERVES MATERIAL  
ELECTRONIC RESERVES ARTICLE LIST**

LCR4803 2012

When requesting ARTICLES from the library, please supply **full Request numbers** on your request card.

<b>Author/Title</b>	<b>Request number</b>
<i>Financial Mail (Pty) Ltd v Sage Holdings Ltd and another</i> South African Law Reports Vol 2 (1993) P 451-472	12-024544-LCR4803
<i>National Media Ltd and others v Bogoshi</i> South African Law Reports Vol 4 (1998) P 1196-1223	12-024547-LCR4803
<i>S v Cornelissen; Cornelissen v Zeelie NO en andere</i> South African Criminal Law Reports Vol 2 (1994) P 41-103	12-024545-LCR4803
<i>S v Harber and another</i> South African Law Reports Vol 3 (1998) P 479-532	12-024542-LCR4803
<i>S v Naidoo and another</i> South African Criminal Law Reports Vol 1 (May 1998) P 479-532	12-024546-LCR4803
PJ Visser "Some principles regarding the 'requester' of access to a record and related issues in terms of the Promotion of Access to Information Act 2 of 2000" <i>Journal of Contemporary Roman-Dutch Law</i> Vol 65 (2002) P 254-259	12-027341-LCR4803
Media Liability for Defamation / JR Midgley <i>South African Law Journal</i> Vol 116 (2) 1999 P 211-225	12-037333-LCR4803
<i>Laugh It Off Promotions CC v SAB International (Finance) BV t/a Sabmark International (Freedom of Expression Institute as amicus curiae)</i> South African Law Reports Vol 1 (2006) P 144-187	12-037334-LCR4803

## 8.3 PROCEDURE TO DOWNLOAD ELECTRONIC RESERVE MATERIAL

### OASIS ELECTRONIC LIBRARY COURSE MATERIAL HELP

How to retrieve electronic journal articles from the UNISA OASIS Library Catalogue

Suggested browser for Electronic Library Course Material:

Microsoft Internet Explorer 5 plus.

The Adobe Acrobat Reader must be loaded on your computer to be able to view / print the scanned PDF documents. The Adobe Acrobat Reader can be downloaded free from

<http://www.adobe.com/prodindex/acrobat/readstep.html>

To access prescribed and recommended electronic journal articles or documents (known as Library e-Reserves):

1. On the Unisa website <http://www.unisa.ac.za>
2. go to the links to Libraries, and select Muckleneuk Campus
3. on the Welcome page, click on Catalogue in the gold Unisa Library Online bar, or search <http://oasis.unisa.ac.za>
4. Do you have a PIN? - if not, click on View and Renew Loans, in the column on the right of the OASIS screen, to create your own PIN: type your name, student number and a PIN of your choosing (any short name or number that you will remember), and click on Submit. Repeat the same new PIN twice on the following screen to confirm it. Click on Submit again. You can view the books you have borrowed (checked out) here and renew them if necessary. Please ignore the Modify your PIN link unless you need to change your PIN. Click on Start Over to search the catalogue.

See the Help documents on the OASIS Library catalogue screen <http://oasis.unisa.ac.za/screens/help.html> for more information, if necessary.

After you have created your PIN, click on Start Over to go back to the OASIS catalogue to find the items you need.

Forgotten your PIN? - the email link to the Library to ask that we delete a forgotten PIN will be found in the PIN Help <http://oasis.unisa.ac.za/screens/pinhelp.html> page.

5. If you already have a PIN - In the catalogue, select your search method to find the electronic article (we suggest either a Title or Author of the article search):
  - a: Click on Title and type the title of the article / chapter / case you need, or on Author and type one authors name with one initial. If you have the request numbers (can be found at the end of tutorial letter 101) you change the option to Res Ord No and fill in the number provided.
  - b: Click on the down arrow next to View Entire Collection at the top right of the titles page and select the Library E-Reserves collection. Click the Search button again to repeat the search in this collection. Titles of articles recommended or prescribed for courses will be displayed. Click on the title. (Please be aware that you will stay in the Library Course Material Collection until you change back to View Entire Collection)
6. When you find the electronic document you need, its location will be Electronic Reserves, and its Status PDF File. To view or print this PDF file, you need to have the Adobe Acrobat Reader software already loaded on your PC.
7. **To retrieve the full-text document, click on the View or Print: link to the title.**

8. The next screen requires your name, student number and your PIN (to check whether you are a registered student or member of staff). Click in the boxes, type the required information and click on Submit. The full-text article will be downloaded by the Adobe Acrobat Reader, assuming you have it loaded on your PC. If you do not have the Adobe Acrobat Reader, nothing will happen and you will get a blank screen with a small box in the top left corner and the Document Done status at the bottom of the page. (Please note that if you have recently upgraded your browser you need to re-load Adobe Acrobat Reader)

The download: this can take some time, depending on the size of the file, internet transmission times, local bandwidth, a firewall at your place of work and your computer and printer capacity, among others. The Status Bar at the bottom of your screen will briefly display the size of the file in Kilobytes - please be aware that some very large files may take up to 20 minutes to download. You will not be able to download the PDF file if you do not have the Adobe software on your PC.

9. Adobe will display the full text of the scanned document. You will see the number of pages the document contains at the bottom of the screen, with the OASIS Catalogue screen in the background. Use the Adobe print or save icons at the top of its screen to print or download the article.

Please note: Viewing and printing a large PDF document (8 or more pages) will take some time. Your PC should have at least 128MB of RAM, and your printer a minimum of 2MB of memory for optimal printing performance. Attached printers will operate much faster than networked printers.

To return to the OASIS catalogue: either click the Back button of your browser twice or click on the Return to Catalogue button on OASIS. The Adobe software will close automatically.

If all else fails and you need to ask the library for a copy. . .

see the Help page for Requesting: <http://oasis.unisa.ac.za/screens/reqhlp.html>

Two ways to request a copy of a Library Course Material article:

- i) return to the catalogue screen displaying the title, click the Request button and type your personal details as required; click Submit request, and then click Request Selected Item to confirm your request
- ii) on the OASIS screen, below the link to "View Loans" you will find the "Journal Requests" link; click on it to open an electronic request form.

You need to type in all the details of the item you require and your name and student number and PIN before you click Submit. This applies to every request.

The PIN for both types of request is the same OASIS PIN you created at step 4 above. Your request will be processed as soon as possible and the requested material will be posted to the address you supplied at registration. Please be aware that there might be some delay in the postal system.

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Your Lecturers

**Prof T Deane**  
**Adv T L Mabusela**