

# international law of contemporary media

## session 1: introduction and overview of the core themes

mira burri, dr.iur.,  
fall term 2009/2010, 15 september 2009

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### the goals of the day

- what are media? which media are we going to discuss?
- what is international media law?
- building elements
- structure of the course
- organisational issues (reading materials, blog, interactive sessions, participation, exam).

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### media? contemporary media?

- means of communicating messages
- mass media designed to reach large audiences
- media play a special role in society (the Fourth Estate)
- special focus on **audiovisual** media (film, music, television and multimedia, such as video games and virtual worlds).

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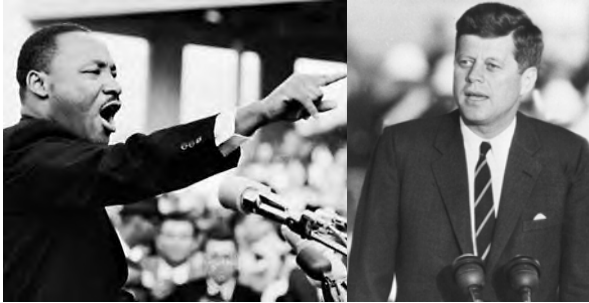
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### media? **contemporary media?**

- old and new media alike
- any other approach unjustified
- media as a changing and dynamic object of regulation
- associated advantages and disadvantages for regulation and for studying media law.

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old → new



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### media? **digital media?**

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## technology



Steve Jobs with Apple Macintosh, 1984

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## media? digital media?

- digitisation (all types of information rendered into binary digits)
- 00011010100010011110101
- advances in the processing power and memory of microchips (i.e. powerful devices)
- perfection and widespread of optical fibres (i.e. powerful networks).

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## the laws of technological advances

Technology nomenclature	Component	Cost-efficiency effect
Moore's Law	Microprocessor	Doubles every 18 months, e.g. from 2GHz to 4GHz
Metcalfe's Law	Network	Increases potential value of network by square of number of nodes
Disc Law	Storage – hard disk	Doubles storage cost-efficiency each year
Data packet transfer	Data compression	Increases: boosted by improved codecs e.g. DivX, RealPlayer, Windows Media
Gilder's Law	Transmission equipment	Bandwidth increases three times faster than microprocessor power – Moore's Law x3.
Fibre Law	Transmission network	Capacity doubles every nine months

Source: RAND Analysis

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### digital media: characteristics

- freed from the need of a tangible medium
- dense: very large amounts of digital information can be stored in small physical spaces
- easy to manipulate
- perfect copies of the original
- networkable: digital information can be shared between large numbers of users simultaneously
- new modes of organising and accessing information (e.g. Dewey vs. Google).

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### why regulate media?

- economic rationale (market failure)
  - cultural products as public goods
  - economies of scale
  - externalities (positive and negative)
  - collective action problems
- societal rationale (media as critical for the functioning of the democratic state and as cultural products and services)

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### public and private goods

	excludable	non-excludable
rivalrous	<b>private goods</b> food, clothing, toys, furniture, cars	<b>common goods</b> fish, hunting game, water
non-rivalrous	<b>club goods</b> satellite television	<b>public goods</b> national defense, free- to-air television, air

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### economic justifications for regulating media

- **economies of scale**
  - the size of the market becomes crucial (compare US domestic market with the Swiss market for a Swiss-German film production)
  - the role of the language
  - less diversification / mainstream production.

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### economic justifications for regulating media

- **negative and positive externalities**
- externalities mean costs or benefits to people other than the one who pays (improper pricing)
- classical example of negative externality – environmental pollution
- examples of positive externality – R&D, education, public safety
- media can have both **positive** and **negative** externalities.

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## economic justifications for regulating media

- collective action problems
  - rational, self-interested individuals will not act to achieve their common or group interests, unless there is coercion or some other special device to make individuals act in their common interest (Olson, 1965).

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## economic and societal justifications for media regulation

- not taking things for granted
- media are dynamic
- market failures may be rendered obsolete
- emerging needs for state intervention (or for global action). Examples: **citizen journalism** and **the long tail**
- a **red line** going through our course, which demands thinking together.

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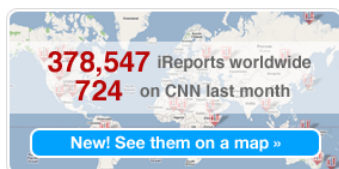
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- **CNN iReport**: Unedited. Unfiltered. News.



- influential political blogs: e.g. the **Huffington Post**.

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## media law

- diverse instruments of media regulation (e.g. licensing restrictions, media ownership rules, domestic content rules, public service broadcasting, diverse measures to support local productions)
- traditionally bound to national boundaries (only natural: until 1980s transborder broadcast technically impossible).

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## international media law

- relatively new legal domain
- puts together a variety of disciplines (human rights, copyright, trade rules, etc.)
- connecting link is the subject matter of media and their cross-border regulation
- expanding legal domain (due to the process of convergence; not only conventional media rules but also telecom and IT law; cyberlaw)
- different building blocks – reflected in the course structure.

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### sessions break-down

- **Session 1:** Introduction and overview of the core themes (15 Sept. 2009)
- **Session 2:** Int'l human rights framework (22 Sept. 2009)
- **Session 3:** Int'l telecommunications law (29 Sept. 2009)
- **Session 4:** The Internet: History, jurisdiction in cyberspace and Internet governance (6 Oct. 2009)
- **Session 5 (interactive):** To regulate or not to regulate cyberspace? (13 Oct. 2009)

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- **Sessions 6&7:** Int'l economic regulation (20&27 Oct. 2009)
- **Session 8:** Int'l IP law (3 Nov. 2009)
- **Session 9:** Media globalisation and its discontents (10 Nov. 2009)
- **Session 10 (interactive):** The quest for cultural diversity in a new media environment (17 Nov. 2009)
- **Session 11:** Emerging challenges and opportunities for media law (24 Nov. 2009)
- **Sessions 12&13:** Q&As / Reserve (1&8 Dec. 2009)

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### other organisational issues

- reading materials (compulsory and optional)
- blog:  
<http://contemporarymedialaw.blogspot.com/>
- slides
- interactive session participation
- exam (take-home; open book)
- contact: [ruth.peterseil@iew.unibe.ch](mailto:ruth.peterseil@iew.unibe.ch) and [mira.burri@wti.org](mailto:mira.burri@wti.org).

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## session 1: reading materials

- benkler, [the wealth of networks](#), chapter 1 (of use for the whole course)
- flew, [basic introduction to new media](#)
- sauvé and steinfatt, [multilateral rules on trade and culture](#), only pp. 326-339 (the whole article for session no 9)
- **optional:** jenkins, [convergence](#) (essay; one page only) and burri, [medialex](#).

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