Georg-August University Göttingen



Special Focus Area 4: Private and Public Media Law

1. Goal and Professional Prospects

Media and communications law is a special focus area covering a number of disciplines and reflecting the increasing significance of the information and media society on the one hand and the convergence of the media (radio and TV, internet, mobiles/telecommunication) on the other. The special focus area is deliberately located between public law and private law, since lawyers working here will normally need at least basic knowledge of one area and more in-depth knowledge of the respective other area.

What is taught are the relevant public-law basics of broadcasting and media law as well as the foundations of civil (private) law, in particular in the area of the protection of industrial rights and copyright, as well as contract and liability law. Special classes build on this towards the relevant area, be it press law in the civil law sector or data protection law in the public law sector. Typical areas for "media" lawyers to be involved in are:

* So-called "content" providers such as the traditional media
* Broadcasting companies, private TV and radio stations
* State media authorities
* Press sector newspapers and magazines
* Internet providers (content)
* Discount phone service providers (ring tones, services, news, etc.)
* Service providers such as
* Internet providers
* Publishing companies
* Telecommunications enterprises

The career opportunities are certainly better than average, since both in public and private law the "normal" lawyer has very little knowledge of the material. At the same time, there are very few special focus areas in Germany that offer these subjects in such breadth. The country faces a growing need for lawyers able to deal with these fields from across a number of disciplines.

Typical starting salaries with law firms for good graduates who have "stuck with" the subject even after the first examination hover around EUR 50,000, and for top candidates verge on EUR 100,000. In-house, the salaries are a little lower. The career paths are varied and can extend from a solicitor working in a large firm in the area of private law, heads of legal departments in associations such as BITKOM or eco, to a legal advisor with a state media authority or a public-law broadcasting authority; often there are opportunities for subsequent careers outside law in politics or the media. Postgraduate programmes at various other universities, but also abroad, complete the picture.

2. Persons responsible and teachers

* Prof. Dr Gerald Spindler (responsible contact person): Tel. 39-7374; Lehrstuhl.spindler@jura.uni-goettingen.de
* Prof. Dr Andreas Wiebe (responsible contact person): Tel.: 39-7381; lehrstuhl.wiebe@jura.uni [-goettingen.de](http://-goettingen.de)
1. Public Law:
* Broadcasting Law, among others: Prof. Dr Christine Langenfeld: Tel. 39-7384; enomiko@gwdg.de
* Special Business Administration Law, among others: Prof. Dr Thomas Mann: Tel. 39-4723; S ekretariat.mann@jura.uni [-goettingen.de](http://-goettingen.de)
* International Business Law: Prof. Dr Tobias Stoll: Tel. 39-4662; pstoll@gwdg.de
* Telecommunications Law: Dr Kaufmann, Private lecturer, lawyer (visiting lecturer), with the chair of Prof. Dr Langenfeld
* Data Protection Law: Dr Börner, Private lecturer (visiting lecturer), with the chair of Prof. Dr Spindler
* Youth Media Protection Law: Dr Erdemir, Hessen State Media Authority (visiting lecturer), with the chair of Prof. Dr Langenfeld
1. Private Law
* Intellectual Property Law I + II Industrial Property Rights and Copyright, Prof. Dr Andreas Wiebe, Tel.: 39-7381; lehrstuhl.wiebe@jura.uni-goettingen.de; Prof. Dr Gerald Spindler, Tel.: 39-7374; lehrstuhl.spindler@jura.uni-goettingen.de; Dr Roman Heidinger, Tel. 39-7445, roman.heidinger@jura.uni-goettingen.de; Dr Nina Franziska Marx (Federal Supreme Court) with the chair of Prof. Dr Andreas Wiebe
* Media Business Law, among others: Prof. Dr Gerald Spindler: Tel. 39-7374; Lehrstuhl.spindler@jura.uni-goettingen.de; Prof. Dr Wiebe, Tel.: 39-7381; lehrstuhl.wiebe@jura.uni-goettingen.de
* Press Law, Dr Roger Mann (lawyer)/Hamburg, (visiting lecturer), with the chair of Prof. Dr Spindler
* Law of Online Market Places and Platforms, Dr Wolf Osthaus (lawyer)/eBay Deutschland, with the chair of Prof. Dr Spindler
* Law of Unfair Competition Prof. Dr Andreas Wiebe, Tel.: 39-7381; lehrstuhl.wiebe@jura.uni-goettingen.de; roman.heidinger@jura.uni-goettingen.de
* E-Commerce and Cyberspace Law (in English), Dr Dan Svantesson, Bond University Australia

3. Classes

a) Classes in the Compulsory Area of the Special Focus Area

Broadcasting Law (with references to the law of new media):

The class "Broadcasting Law (with references to the law of new media)" covers

* The way in which broadcasting and the new media manifest themselves
* The historical development of the broadcasting system in Germany
* The role of broadcasting in the democratic and social federal state of the Constitution
* Freedom of communication in Art. 5 of the Constitution and other media-related basic rights
* The legal foundations within different jurisdictions for the establishment of private and public broadcasting (including the funding and supervision of broadcasting) with the European law aspects of Germany's broadcasting system

Data Protection Law (a public law field):

The subject of the Data Protection Law lecture is the basics of the Federal Data Protection Act as well as a number of special regulations specific to certain areas. In particular,

* Federal Data Protection Act (area of application, important principles, victims' rights, data processing at public and non-public places in compliance with the law, implementation of data protection law provisions)
* Data protection in marketing (advertising restraints in the Federal Data Protection Act, advertising regulations for specific areas and advertising as an abuse of privacy law)
* Data protection in the field of telecommunications (telecommunications confidentiality, data protection regulations of the Telecommunications Act, public security, cooperation in implementing state supervisory measures, controls and implementation of the Telecommunications Data Protection Act)
* Data protection in the case of teleservices (the Teleservices Data Protection Act; application of user data, electronic consent, victims' rights)
* Employee data protection (data protection in the workplace, personnel data protection, worker co-determination in case of personnel data)
* Protection of social data (social confidentiality, facts amounting to consent to the handling of social data, victims' rights, data protection controls in the case of social data)

Media Business Law/Law of Online Platforms

The "Media Business Law" class covers issues of

* Contract law and remote user protection (e.g. contracts with internet­ providers, entry into media-related contracts (TV-shopping, e-commerce)),
* Law of liability (liability for third-party content in TV/radio and online platforms; security obligations in relation to hackers, viruses and worms)
* Specific issues of competition law (law governing domain names and the allocation of domain­s, price information in e-commerce, online advertising and marketing, etc.), of anti-trust law (permissibility of electronic market places, consolidations in the media sector)
* Finally, of international private law (criteria for the connection with international contract and liability law, international copyright, etc.) and of international jurisdiction

Press Law (field of civil (private) law)

The class covers

* The classification of press law between constitutional law, press regulatory law, the law relating to criminal liability of the press and civil rights claims
* Press law claims in private law using the example of injunctive relief (including general privacy law, the right to one's own picture, interpretation of statements, reporting of suspicions, enforcement by the courts)
* Revocation, rectification, dissociation
* Material damages
* Financial compensation ("damages for pain and suffering")
* Counter-statement

Copyright (Intellectual Property Law I):

* Copyright as central subject matter for media and communications law: copyright protection and ancillary copyright,
* Bases of protection: object of protection, pre-conditions to protection
* Rights of exploitation offline and online
* Restrictions on copyright
* Tension between media freedom on the one hand and copyright on the other hand
* Legal consequences: damages claims, claims for injunctive relief
* Special features in case of disclosure claims
* Legal protection of computer programmes and databases
* International regulations and European harmonisation
* Basic copyright challenges: open source, open access­ models

b) Classes in the options field of the Special Focus Area

International and European Business Law:

* Basic structures and the institutional foundation of the international business law system as it has developed
* Functions - law-making, implementation, inter-state dispute settlement, protection of rights at national, European and international level
* Substantive principles - market access, non-discrimination and protection of competition
* Individual areas - trade, liberalisation of the provision of services, technical trade restrictions, protection of copyright, anti-dumping, subsidies
* Developments and prospects - the WTO as part of the international system, controversial references to human rights and social standards.

The international business law course is aimed at those interested in international, European or business law. Here, the bases of international law, from law-making and implementation, and the relation with national law, through to the rights of the individual, are perfectly enlarged upon. Among the particular challenges of today's international law system and its further development are the issues of how the WTO system and other regulatory areas intersect, the protection of human rights, social standards and international environmental law. Given that developments in European law follow the standards of the WTO ever more frequently, the subject of "International Business Law", with its striking parallels and contrasts, completes the European law course. Even an internationally-oriented training in business law barely gets around the subject.

Cases and Developments in International Criminal Law

Current cases from the dispute settlement of the World Trade Organisation (WTO); also developments in other institutions depending on how topical they are, in particular also arbitration cases in the context of the World Bank's International Centre for the Settlement of Investment Disputes.

Telecommunications Law:

The "Telecommunications Law" class covers the following subject areas:

* Technical and economic bases of telecommunications law
* Development of telecommunications law in Germany and in the EC (initial position, constitutional law, development of Community legislation)
* Market definitions, market analyses and regulatory order (SMP concept, structure of market analysis, regulatory orders)
* Access regulation (facts of the case, addressees, proceedings)
* Fee regulation (regulatory principles, powers of the regulatory authorities)
* Regulation of advance payments, regulation of end client fees
* Particular control of abusive practices
* Broadcasting transmission, award of frequencies, numbers and rights of way, universal services
* Regulatory authorities, proceedings and court proceedings

Youth Media Protection Law (a public law field)

The "Youth Media Protection Law" class covers the following subject areas in particular:

* Bases of research into the effect of the media (theoretical approaches to the effect of the media, variables in the influence process)
* Constitutional law foundations of youth media protection (legislative power, guarantee of human dignity, general privacy law, freedoms of communication, parental rights, etc.)
* The legal foundations within different jurisdictions for youth media protection (criminal law and specific legislation for youth and adult media protection, in particular the Criminal Code, Youth Media Protection Treaty (between the German states) and Youth Protection Act)
* Institutional youth media protection (state media authorities, Commission for Youth Media Protection, FSF (TV self-regulation), FSM (multi-media providers' self-regulation), FSK (film-makers' self-regulation, USK (Entertainment Software Self-regulation), BPjM (Department for Media Harmful to Young Persons))
* Specific issues of youth media protection (concept of "regulated self-regulation", arbitration of media competence, new intervention strategies in the age of media convergence, etc.)
* International-law aspects of youth media protection (European community law, Audio-visual Media Services Directive, Cyber Crime Convention, etc.)

Particular Business Administration Law:

Specific areas of business administration law, such as: energy industry law, trade law, craft industry law, restaurant law, closing time law, telecommunications law, transport law (public transport, passenger transport law, goods transport law, other transport law), banking law, pharmaceuticals law.

Industrial Property Rights (Intellectual Property Law II):

The subject of the lecture is in particular:

* Patent law: conditions, content and scope of patent protection, application of patent law by way of licensing
* Trademark law as a further important area, in particular for communications law: conditions, content and scope of trademark protection, trademark law in legal relations, use of trademarks for advertising purposes
* Other industrial property rights at a glance: utility model, registered design, competition law benefit protection
* International aspects of the protection of intellectual property rights: applicable law, possibilities of cross-border protection, European system of protection, international law convention
* Particular issues based on the development of information technology

Unfair Competition Act - the law of unfair competition

Competition represents the primary legal framework for advertising and marketing, even in the area of the media and the internet. Cases from this field are an everyday occurrence for almost every lawyer whose work is related to business law. Therefore the acquisition of knowledge in the course of one's studies is essential for later practice in this field. The subjects dealt with include:

* The "back list" of unfair business practices
* Misleading advertising, abuse of duties of disclosure within media law
* Comparative advertising
* Protection of consumers' interests in the Unfair Competition Act
* Protection of co-advertisers' interests in the Unfair Competition Act
* Undue harassment, in particular the ban on spam
* Admissibility of selected practices in the media and online
* Legal consequences and implementation of the law
* European law and harmonisation in Europe

Industrial Property Rights - case-based back-up class

Upon students' express wish, this class should be for consolidation purposes using selected cases, as well as for the purpose of practising case resolution techniques in this area of law not covered by the established scripts. The class should draw the students in to active involvement.

Competition Law (Unfair Competition Act) - case-based back-up class

Upon students' express wish, this class should be for consolidation purposes using selected cases, as well as for the purpose of practising case resolution techniques in this area of law not covered by the established scripts. The class should draw the students in to active involvement.

Selected copyright issues - consolidation by way of relevant decisions by the Federal Supreme Court

The class is for the consolidation purposes using selected decisions by the Federal Supreme Court, and accompanies the Intellectual Property Law II lecture. At the same time, the class should also be an opportunity of practising case resolution techniques in this area of law not covered by the established scripts.

E-Commerce and Cyberspace Law

Class in English, which also provides opportunities for a foreign language certificate. Potential contents: electronic contracts, consumer protection on the internet, intellectual property in cyberspace; liability and standards of conduct in cyberspace; privacy and data protection; jurisdiction and applicable law.

4. Study plan Compulsory Area (8 hours)

Winter semester (from winter semester 2011/2012)

* Intellectual Property Law I (copyright), 2 SWS
* Broadcasting Law (with references to the law of new media) 2 SWS
* Media Business Law/Law of Online Platforms

Summer semester (from summer semester 2011)

* Data Protection Law, summer semester, 2 SWS
* Press Law (private law field), summer semester 2 SWS

Options area (study recommendations - a total of 8 hours of classes need to be occupied and completed)

* European and International Business Law, winter semester, 2 SWS
* Intellectual Property Law II (Industrial Property Rights), 2 SWS
* Industrial Property Rights - case-based, winter semester, 2 SWS
* Telecommunications Law, winter semester, 2 SWS
* Youth Media Protection Law, summer semester, 2 SWS
* Competition Law (Unfair Competition Act), summer semester, 2 SWS
* Unfair Competition Act - case-based, summer semester, 2 SWS
* Business Administration Law, summer semester, 2 SWS
* Consolidation of Copyright using Federal Supreme Court Case Law - guest lecture by Dr Nina Marx (Federal Supreme Court) winter semester
* E-Commerce and Cyberspace Law, Dr Dan Svantesson, summer semester, 2 SWS

The division between winter semester/summer semester is provisional; where necessary, classes can be combined at the University's discretion.

The classes

* Telecommunications Law
* Data protection Law
* Press Law
* Law of E-platforms

are offered as a block class.

Seminars

* Seminar on Broadcasting Law - Langenfeld
* Seminar in Business and Media Law: Disclosure Law and Intellectual Property Law - Wiebe

Otherwise seminars are offered on varying subjects in the summer as well as in the winter semesters (lecture timetable and the homepages of the relevant professors' offices to be notified nearer the time).