

Broadcasting Law

**Elective
Past
Papers**

LL.B. III



GĦAQDA STUDENTI TAL-LIĠI

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2020/2021

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ABOUT GħSL

Għaqda Studenti Tal-Ligi (The Malta Law Students' Society) is a faculty-based, non-profit organisation at the University of Malta that represents all law students within the Faculty of Laws.

The organisation plays a pivotal role in law students' academic and social life at the University of Malta. The organisation has also been responsible for publishing the prestigious *Id-Dritt*, and the *GħSL Online Law Journal*.

Moreover, GħSL boasts its own Thesis Library, located at the GħSL office in the Faculty of Laws. Additionally, GħSL is the only law organisation responsible for the distribution of authoritative law notes and past papers.

For further queries on this set of notes, as well as any other, please feel free to contact our **Resources Officer** at resources@ghsl.org.



Advice from an Alumna

By Dr Priscilla Mifsud Parker

The law course is a long journey, but one that, if well-travelled, will lead to beautiful destinations. In an industry which is today attracting many young individuals looking to develop their career in law, it is important to stay ON the beaten track and remain focused. It may go without saying that it is of great importance for all students to attain good academic grades, to be dedicated to their work, as well as to be determined in this highly-competitive industry in order to fulfil their dream of becoming lawyers one day. However what is crucial is that as students and later on as professionals we are innovative by being sensitive to the changes around us. These changes might be political, economic, environmental, socio-cultural or others; what is for sure is that they all have an impact on the profession of a lawyer. We are members of a dynamic profession which is very sensitive to its surroundings. The type and 'genre' of advice which is required from us is all affected by what is being experienced by the receivers of this advice.

Work experience is considered as a vital part of the staple diet of any prospective lawyer in order to put into practice and refine the knowledge gained from the theoretical reality of the lecture halls and lawbooks into the skills required for a successful career in law. An internship will not only show future recruiters that you have a genuine interest in pursuing a career in this sector, but that you have the practical knowledge and skills to succeed in your role.

Here are some personal suggestions that I feel helped me during my journey:

1. *Being Ambitious*

A powerful trait in any competitive industry, ambition will help you in your law course, in your career as a lawyer, as well as in your life. Whilst the law course can be quite intimidating and challenging, an ambitious individual who is dedicated to learning new things has the potential to understand and realize long-term goals. Do not view the journey as one whole insurmountable mountain but focus on the next small goal and once achieved move on to the next and goal by goal you will reach your final target point.

In this respect, gaining valuable work experience through an internship is an important step taken by an ambitious young lawyer who wants to attain certain skillsets, and remain a step ahead of his/her peers. By being inquisitive, analytical and humble enough to accept guidance and mentoring one is guaranteed a fruitful experience in a law firm. It is also not only a means to start focusing on the direction of your career and to build upon your chosen path, but will undoubtedly expose you to the international world. This is crucial, as most of the traditional legal sectors have been intertwined with new areas of legislation and all these together now present much more opportunity for intra-jurisdictional work.

2. *Networking*

By engaging with counterparty students abroad and in international fora one gains an insight into another reality and is exposed to different cultures, ways of communicating and is able to bridge



the differences between parties to a mundane discussion which will eventually become a transaction or a major project in professional life.

3. Organisational Skills

Organisation is key in any industry. Good organisation skills always stand out to a recruiter when considering potential applicants. Such skills can be obtained by gaining experience either through organising one's own work, study plan, student events or cultural/philanthropic events.

Going hand-in-hand with this, is having a study plan. By planning your studies ahead, one will have a sufficient amount of time to meet all the demands, while also being able to participate in productive outside activities. Reviewing notes or case briefs before class can also help you follow and participate in class discussions better, whilst following case-law allows you to apply them for specific situations. In view of the amount of material involved summarising and carving out the most crucial points is essential to then build your argument in papers.

4. Taking your own class notes

It is always important to take down your own notes as laws are always evolving and passed-down notes would provide the context but are not ideally used for the detail. Researching the particular topic and comparing Malta's law with that of other jurisdiction gives one a completely different outlook and commenting on these variances in an exam paper, dissertation or assignment would distinguish one student from another. Not to be overlooked are also the consultation papers, commentaries and other official public documents that are issued by local authorities from time to time on different areas of law and industry. Being abreast of what is happening in industry will help putting the particular law or regulation in context.

5. Participation

Participation is a main element of the learning process. Being actively involved during seminars and lectures and participating in legal debate sessions, mock trial competitions and moot courts are essential in order to improve your persuasive and presentation skills. If you find this very difficult (all of us have different characters and traits), then try to focus on participation in other events which will expose you to public speaking starting off in smaller groups in a more familiar environment and trying out new experiences and larger audiences as you go along.

6. Practice is the key to success

This leads us to our next point – practice. Attaining good grades is undoubtedly an important part of the law course, however, in themselves, they are not enough to show that you have substantial material to succeed. Working within a law firm introduces you to the world of work, and allows you to gain specific industry-related skills which one will only ever be able to learn in a workplace setting.

Work experience can provide you with valuable insight which will help you decide what your career aspirations are and in which areas you would like to further delve into.

UNIVERSITY OF MALTA

FACULTY OF LAWS

**DEPARTMENT OF MEDIA, COMMUNICATIONS
AND TECHNOLOGY LAW**

LL.B. III YEAR (2010-2011)

MAY/JUNE 2011 EXAMINATION

EXAMINATION: MCT 3000 – Broadcasting Law

DATE: Tuesday, 21st June 2011

TIME: 8.00 a.m. – 9.00 a.m.

ALL QUESTIONS CARRY EQUAL MARKS

ANSWER ONE (1) QUESTION FROM ANY OF THE FOLLOWING:

1. 'Malta still maintains an absolute broadcasting ban of political advertising.' Discuss this statement in the light of: (a) the Broadcasting Act; (b) the case law of the Maltese courts; and (c) the case law of the European Court of Human Rights.
2. How would you typify Media Law? What would you consider to be the elements of Media Law? How has Media Law evolved over time?
3. Discuss the relationship between Media Law on the one hand and the three organs of the state (Legislature, Executive and the Judiciary) on the other.

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AND TECHNOLOGY LAW**
LL.B. III YEAR (2011-2012)
JUNE 2012 EXAMINATION

EXAMINATION: MCT 3000 – Broadcasting Law
DATE: Friday, 8th June 2012
TIME: 8.00 a.m. – 9.00 a.m.

ALL QUESTIONS CARRY EQUAL MARKS

ANSWER ONE (1) QUESTION FROM ANY OF THE FOLLOWING:

1. “One of the main objectives of a broadcasting regulatory authority is that it should be effective but at the same time reasonable and fair.” Discuss in the light of the Court Judgement in ‘Smash Communications Limited v. Broadcasting Authority’ (7 January 2012).
2. To what extent, if at all, can the ban on political advertising in the broadcasting media be considered as absolute taking into account (i) the laws of Malta, (ii) the case law of the Maltese Courts, and (iii) the case law of the European Court of Human Rights?
3. Children are considered to be vulnerable persons. Explain how they are afforded protection within the broadcasting landscape on an international and national level, with particular reference to the broadcasting law and regulations of Malta.

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AND TECHNOLOGY LAW**
LL.B. III YEAR (2012-2013)
JUNE 2013 EXAMINATION

EXAMINATION: MCT 3000 – Broadcasting Law
DATE: Friday, 28th June 2013
TIME: 9.15 a.m. – 10.15 a.m.

ALL QUESTIONS CARRY EQUAL MARKS

ANSWER ONE (1) QUESTION FROM ANY OF THE FOLLOWING:

1. “It shall be the function of the Broadcasting Authority to ensure due impartiality.” (*Article 119 of the Constitution of Malta*). Critically examine this provision in the light of (a) the Authority’s own constitutional independence; (b) the provisions of the Constitution as well as of the Broadcasting Act (Chapter 350) on impartiality; and (c) subsidiary legislation that refers to impartiality.
2. Journalists have a right of non-disclosure of their sources. Consider this principle with reference to the Press Act (Chapter 348), and to case law of the European Court of Human Rights.
3. “It follows that the more convincing the general justifications for the general measure are, the less importance the Court will attach to its impact in the particular case.” (*Case of Animal Defenders International v. The United Kingdom, European Court of Human Rights, Grand Chamber, 22 April 2013*). Critically evaluate this judgement and contrast it with what was said by the same Court in the *VgT case (2001, 2009)*, *Murphy case (2003)*, and *TV Vest case (2008)*, as well as with what was decided by the Constitutional Court of Malta in the case ‘*Tony Zarb et v. L-Awtorita’ tax-Xandir’ (2006)*.

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LL.B. III YEAR (2012-2013)

SEPTEMBER 2013 EXAMINATION

EXAMINATION: MCT 3000 – Broadcasting Law
DATE: Wednesday, 4th September 2013
TIME: 9.15 a.m. – 10.15 a.m.

ALL QUESTIONS CARRY EQUAL MARKS

ANSWER ONE (1) QUESTION FROM ANY OF THE FOLLOWING:

1. Examine the main provisions of what the law provides with regard to advertisements and teleshopping for radio and television broadcasts and how are children given additional protection in view of their vulnerability?
2. (a) Describe and discuss the main functions of the Broadcasting Authority (75 marks)
(b) Explain to what extent can the Authority consider different criteria when it comes to ensuring due accuracy in all news programmes as opposed to ensuring the principle of impartiality. (25 marks)
3. Explain how the fundamental human right of freedom of expression has been applied by the Courts of Malta and by the European Court of Human Rights to allow for a degree of political advertising.

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LL.B. HONS. 4th YEAR

JANUARY 2016 EXAMINATIONS

EXAMINATION: MCT 3000 – Broadcasting Law

DATE: Friday, 22nd January 2016

READING TIME: 10.00 AM to 10.05 AM

DURATION OF EXAMINATION: 10.05AM to 11.05 AM

INSTRUCTIONS TO STUDENTS:

ALL QUESTIONS CARRY EQUAL MARKS

Choose any one (1) of the following questions:

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1. Compare and contrast the cases *Smash Communications Limited v. Broadcasting Authority et* (First Hall, Civil Court, Malta, 7 February 2012) and *Sigma Radio Television Limited v. Cyprus* (European Court of Human Rights, 21 July 2011). Evaluate critically your own comparative analysis.
 2. “Radio and television broadcasters are required to provide news and current affairs programmes that should be presented with due accuracy”, Subsidiary Legislation 350.14 dealing with Requirements as to Standards and Practice Applicable to News Bulletins and Current Affairs Programmes. Discuss
 3. “The test of ‘necessity in a democratic society’ requires the Court to determine whether the ‘interference’ complained of corresponded to a ‘pressing social need’, whether it was proportionate to the legitimate aim pursued and whether the reasons given by the national authorities to justify it are relevant and sufficient,” Case of *TV Vest AS & Rogaland Pensjonistparti v. Norway*, European Court of Human Rights, 11 December 2008. Discuss with reference to other cases brought up before the European Court of Human Rights as regards political advertising and the impact of such case law on the situation in Malta.

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LL.B. HONS. 4th YEAR

JANUARY 2017 EXAMINATIONS

EXAMINATION: MCT 3000 – Broadcasting Law

DATE: Tuesday, 17th January 2017

READING & NOTING TIME: 10.00 AM to 10.05 AM

DURATION OF EXAMINATION: 10.05AM to 11.05 AM

writing is permitted during the Reading and Noting time.

INSTRUCTIONS TO STUDENTS:

ALL QUESTIONS CARRY EQUAL MARKS

Choose any one (1) of the following questions:

1. Discuss the functions of the Broadcasting Authority in the light of the Constitution of Malta and of the Broadcasting Act (Cap. 350 of the Laws of Malta).
2. Critically analyse the impact of the judgement of the Court of Appeal in the case ‘Smash Communications Limited v Broadcasting Authority et’ decided on 24 June 2016. To what extent, if at all, has this judgement had an impact on the Special Administrative Procedure outlined in Article 41 of the Broadcasting Act?
3. “Having regard to the importance of the protection of journalistic sources for press freedom in a democratic society and the potentially chilling effect an order of source disclosure has on the exercise of that freedom, such a measure cannot be compatible with Article 10 of the (European) Convention unless it is justified by an overriding requirement in the public interest,” Case of Voskuil v The Netherlands, European Court of Human Rights, 22 November 2007. Discuss with reference to other cases brought up before the European Court of Human Rights as regards the protection of journalistic sources and the impact of such case law in Malta.

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MCT3000 Broadcasting Law

Monday 29th January 2018

Duration of Examination: 8.30AM – 9.35AM

INSTRUCTIONS TO STUDENTS:

ALL QUESTIONS CARRY EQUAL MARKS

Choose any one (1) of the following questions:

1. Discuss the special administrative procedure through which the Broadcasting Authority can enforce the law and regulations.
2. “Malta’s Broadcasting Act provides for an absolute ban on political advertising.” To what extent if at all are you in agreement with that statement, and would you recommend any changes to our law in the light of the case law on the subject by the European Court of Human Rights and by Malta’s own Constitutional Court?
3. “Protection of journalistic sources is one of the basic conditions for press freedom” Decree of Magistrates’ Court (per Magistrate Dr Francesco Depasquale) in the case *Lindsey Gambin v Daphne Caruana Galizia* (17 March 2016). Discuss the importance of this principle in the light of the fundamental human right of freedom of expression.

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MCT 3000 Broadcasting Law

DATE: Wednesday, 5th September 2018 **DURATION OF EXAMINATION:** 10:00-11:05am

INSTRUCTIONS TO STUDENTS:

ALL QUESTIONS CARRY EQUAL MARKS

Choose any one (1) of the following questions:

1. Describe the main functions of the Broadcasting Authority and examine in particular how the Authority seeks to ensure that the public receive an accurate and impartial news service through a broadcasting system built on the concept of pluralism.
2. To what extent is it correct to state that the law provides for an absolute ban on political advertising? Discuss with reference to provisions in our law as well as with reference to judgements of Malta's Courts of Justice and the European Court of Human Rights.
3. "Protection of journalistic sources is one of the basic conditions for press freedom ... Without such protection, sources may be deterred from assisting the press in informing the public on matters of public interest." Discuss.

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January/February 2019 Examination Session

MCT3000 BROADCASTING LAW

Date: Friday 1st February 2019

Duration of Examination: 10:00AM-11:05AM

INSTRUCTIONS TO STUDENTS:

Answer any **ONE (1)** question.

All questions carry equal marks.

1. "Except as provided in this Act, freedom to broadcast and to receive broadcasts is guaranteed." (Art. 10 (1) of the Broadcasting Act – Cap. 350 of the Laws of Malta). Discuss.
2. Critically analyse the significance of the judgement of the Court of Appeal in the case 'Smash Communications Limited v Broadcasting Authority et' decided on 24 June 2016 with regard to the Special Administrative Procedure outlined in Article 41 of the Broadcasting Act.
3. Discuss the significance of the case 'Becker v Norway' decided by the European Court of Human Rights on 5 October 2017 with regard to "the protection of journalistic sources for press freedom".