

## PREFACE

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Many people view the law as something that is stationary, something that rarely changes. But that is not necessarily true—especially as it relates to mass media law. Certainly some areas of this kind of law haven't changed much in decades, even centuries. The definition of what is libelous is about the same now as it was 100 years ago. But in many other areas of the law changes have occurred rapidly, subject to the whims of government officials, the winds of public opinion and the growth of legal theory. This edition of *Mass Media Law* contains numerous examples of this kind of change.

Chapter Two includes new material on the recent spate of laws targeting video games such as “Grand Theft Auto: San Andreas.” Government agencies at both the state and local levels proposed a slew of laws in 2004 and 2005 designed to restrict the access of minors to games that they argued fostered violent behavior. Such legislation, of course, does little to reduce real-world violence, but gives the politicians the opportunity to stake out the moral high ground (giving short shrift to freedom of speech in the process) and take popular and self-righteous stands against both virtual and actual violence. In addition to video-game legislation, many public officials and members of the Federal Communications Commission called for cleaning what they called indecent content off the public airwaves to ostensibly protect children from the impact of such matter. Chapter 16 includes substantial new material on these battles.

There were calls for greater media responsibility in the past two years as some elements of the press and the “infotainment industry” demonstrated a new: aggressiveness. California cracked down on the gadfly photographers called paparazzi with several new laws. And the press was pushed by some to pay more attention to what is ethically or morally correct, not simply what is legally possible. There is new material on privacy and ethics in Chapter Eight.

Access to government information in a post 9/11 nation waging a war on terrorism continued to be a major problem for journalists and the public. “[In] the four years since September 11, an astonishing amount of information has been taken away from the American people,” wrote Lucy Dalglish, head of the Reporter’s Committee on Freedom of the Press in 2005. About the only good news on the access front occurred in December 2005 when President Bush signed an executive order designed to improve and expedite requests for information under the federal Freedom of Information Act. Chapter Nine contains new material on access to information matters.

There were several major battles in the past two years over reporters’ efforts to keep the identity of their sources confidential in the face of subpoenas from special prosecutors and others. In one case, journalist Judith Miller spent much of the summer of 2005 in a Virginia detention facility after she chose not to reveal the name of a source who leaked to her the name of a covert CIA agent. And veteran Rhode Island television reporter Jim Taricani was sentenced to home confinement after he refused to reveal the identity of the person who gave him a copy of a secret government surveillance videotape showing an FBI informant handing

an envelope, that law enforcement officials said contained a cash bribe, to a Providence, R.I., city official. These incidents and others raised a new call in 2005 for a federal law to shield journalists who are called upon to reveal the identity of their confidential sources, but Congress had taken no action on such proposals as this book went to press. These stories and others are recounted in Chapter 10.

Finally, the legal skirmishing over music file sharing reached at least tentative closure with a unanimous Supreme Court ruling that said the music industry could successfully sue software manufacturers like Grokster if it could show that a company induced copyright infringement in the marketing of its software, even of the product also had lawful uses. While the legal battles diminished and lawful downloading of recorded music increased, illegal file sharing continued as well. This ruling is detailed in Chapter 14.

As in previous editions, a full list of new material contained in this edition follows this short preface. But we have added something new. There is also a list that indicates the location of major segments of the book that relate directly to particular problems of how the law applies to the Internet.

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