

**Current Issues in Internet Law  
(Most) Wednesdays 1:30–3pm  
Kate Klonick and Thomas Kadri  
YLS**

**I. Course Description**

This group seeks to discuss and engage in the dialogue around Internet law reform as it is currently presenting in active issues of legislation, litigation, agency control, private regulation, and public policy.

The group will focus on three issues currently at the fore of debates over Internet law: (1) Section 230 reform; (2) net neutrality reform; and (3) private platform self-regulation and online speech.

The class will meet 10 times for 90 minutes each time, and participants will be assigned readings for presentation on a day of their choice. To receive credit (1 Credit) from the Law School, students must attend 750 minutes of class. Thus, if a student wishes to receive credit, he or she can miss only one class.

A general knowledge of the basics of Internet Law is assumed. Readings **without** an \* are required background material; readings **with** an \* will be the focus of our discussion.

**II. Syllabus**

- 1/17 History of Section 230**
- [CDA Section 230](#)
  - [Reno v. ACLU](#), 521 U.S. 844 (1997)
  - [Zeran v. AOL](#), 129 F.3d 327 (4th Cir. 1997)
  - [Fair Housing Council v. Roommates.com](#), 521 F.3d 1157 (9th Cir. 2008)
  - [Jane Doe No. 1 v. Backpage.com, LLC](#), 2016 WL 963848 (1st Cir. March 14, 2016)\*
- 1/24 Current Proposals for Section 230 Reform (Guest: Eric Goldman)**
- [SESTA](#)\*
  - SESTA Congressional Testimony (2017)
  - [FOSTA](#)\*
  - FOSTA Congressional Testimony (2017)
  - [Joint Statement in Response to Tech Industry Obstruction of Section 230 Legislation](#) (2017)
  - [Joint Letter for 50 Attorneys General RE: Amendment of Communications Decency Act](#) (2017)

- Emily Cochrane, [Senate Crackdown on Online Sex Trafficking Hits Opposition](#), NY TIMES (2017)
- Nicholas Kristof, [Google and Sex Traffickers Like Backpage.com](#), NY TIMES Op-Ed (2017)
- Danielle Keats Citron & Benjamin Wittes, [The Internet Will Not Break: Denying Bad Samaritans Section 230 Immunity](#) (2017)

### **Current Litigation around Section 230 (TBD)**

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### **History of Net Neutrality**

- James Grimmelman, [INTERNET LAW](#), Chapter 9C (2017)
- Tim Wu, [A Proposal for Network Neutrality](#) (2002)

### **Current State of Net Neutrality**

- Ajit Pai, [Restoring Internet Freedom](#) (2017)
- Cherlynn Low, [What You Need to Know about Net Neutrality \(Before It Gets Taken Away\)](#), ENGADGET (2017)
- Ken Engelhart, [Why Concerns for Net Neutrality are Overblown](#), NY TIMES Op-Ed (2017)
- Cecilia Kang, [F.C.C. Repeals Net Neutrality Rules](#), NY TIMES (2017)
- Cecilia Kang, [Big Tech to Join Legal Fight Against Net Neutrality Repeal](#), NY TIMES (2018)

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### **Beyond ISPs: Antitrust and Monopoly Concerns at the Platform Level**

- Kate Klonick, [The Terrifying Power of Internet Censors](#), NY TIMES Op-Ed (2017)
- Ben Thompson, [Defining Aggregators](#), STRATECHERY (2017)
- Jennifer Senior, [Review: 'The Attention Merchants' Dissects the Battle for Clicks and Eyeballs](#), NY TIMES (2016)
- Tim Wu, THE ATTENTION MERCHANTS 255–344 (2016)

### **Agency Regulation of Platforms: FCC, FEC, FTC**

- William McGeeveran, [Should Government Take on Facebook?](#), NY TIMES Op-Ed (2010)
- Heather Timmons, [Washington Failed to Regulate Big Tech—and Now It's About to Discover that It Can't](#), QUARTZ.COM (2017)

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### **Platform Self-Regulation**

- Rebecca Tushnet, [Power Without Responsibility: Intermediaries and the First Amendment](#) (2008)
- Kate Klonick, [The New Governors: The People, Rules, and Processes Governing Online Speech](#) (2018)

- [Google Terms of Service](#) (2017)\*
- Facebook Hard Questions Blog, [Who Should Decide What is Hate Speech in an Online Global Community?](#) (2017)\*

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### Platforms, Speech, and the First Amendment

- Lawrence Lessig, [CODE 2.0](#) 233–75 (2007)
- [Cyber Promotions v. AOL](#), 948 F. Supp. 436 (E.D. Pa. 1996)
- [Zhang v. Baidu](#), 10 F. Supp. 3d 433 (S.D.N.Y. 2014)
- [Packingham v. North Carolina](#), 137 S. Ct. 1730 (2017)\*
- Jack Balkin, [Digital Speech and Democratic Culture](#) (2004)\*
- Jack Balkin, [Old School/New School Speech Regulation](#) (2014)\*

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### Platforms and the Edge of the First Amendment: Public Figures and Public Accommodations

- [New York Times v. Sullivan](#), 376 U.S. 254 (1964)
- [Gawker Media v. Bollea](#), 129 So. 3d 1196 (Fla. Dist. Ct. App. 2014)\*
- James Gottry, [Just Shoot Me: Public Accommodation Anti-Discrimination Laws Take Aim at First Amendment Freedom of Speech](#), 962–78 (2011)

### *Masterpiece Cakeshop v. Colorado Civil Rights Commission*

- *Masterpiece Cakeshop* Oral Argument [Transcript](#)\*
- Robert Post, [An Analysis of DOJ’s Brief in Masterpiece Cakeshop](#), TAKE CARE BLOG (2017)
- Amy Howe, [Argument Analysis: Conservative Majority Leaning Toward Ruling for Colorado Baker](#), SCOTUSBLOG (2017)\*

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### Prescriptive Solutions from...

- Civil Society (Guest Speaker: Jillian York, EFF)
- Government (Focus on EU and US)
- Private Industry (Guest Speaker: John Samples, Cato)
- Media (Guest Speaker: Julia Angwin, ProPublica)
- Consumers/End Users (Guest Speaker: Nuala O’Connor, CDT)

(Readings TBD based on Current Events and Speaker Selections)

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### End of Class Discussion and Summary of Issues

- Jack Balkin, [Free Speech in the Algorithmic Society](#) (2018)\*

- Tim Wu, [\*Is the First Amendment Obsolete?\*](#), EMERGING THREATS: KNIGHT FIRST AMENDMENT INSTITUTE BLOG (2017)