Unit code
ACCG953

Unit Name
COMPETITION AND CONSUMER LAW

Second Semester, 2012

Department
Accounting and Corporate Governance
UNIT GUIDE

Year and Semester: 2012, 2

Unit convenor: Dr John Garrick

Prerequisites/Corequisites: ACCG614 or admission to MCorpGvnce prior to 2013 or admission to MCom or MIB or MEc or MActPrac prior to 2011.

Credit points: 4

Students in this unit should read this guide carefully at the start of semester as it contains important information about the unit. If anything in it is unclear, please consult one of the teaching staff in the unit.

ABOUT THIS UNIT

This unit examines various topics covered by competition and consumer law. In particular it considers the Commonwealth Government’s Competition and Consumer Act (2010) and related case law. Overall, the unit introduces students to competition and consumer regulation in Australia including a range of trade practices issues such as what constitutes ‘anti-competitive conduct’, ‘misuse of market power’ and ‘misleading and deceptive conduct’ in the context of trade and commerce. Examples of successful prosecutions are examined as well as defences that may apply and the options are available to Courts if evidence is found of misleading and deceptive conduct, specific false representations as to price and/or bait advertising. Within these broad aims are several specific targets that will be identified as the unit progresses.

Familiarity with competition and consumer law will be of assistance to any student who may wish to work in any government agency or business that deals with ‘consumers’, or who are engaged in trade and commerce as defined by the Act.

TEACHING STAFF

- Convenor: Dr John Garrick: john.garrick@mq.edu.au
- Senior departmental administrative officer: Ms Irene Chaudry E4A320B 9850 8535 irene.chaudry@mq.edu.au

CONTACTING STAFF

- Consultation time: By appointment.

You are encouraged to seek help at a time that is convenient to you from a staff member teaching on this unit during their regular consultation hours. In special circumstances, an appointment may be made outside regular consultation hours. You may consult by email. You may phone staff during their consultation hours.
Students experiencing significant difficulties with any topic in the unit must seek assistance immediately.

**CLASSES**

- There will be a weekly face-to-face class on Wednesday 6-9pm, in E7B200 Theatrette
- The timetable for classes can be found on the University web site at: [http://www.timetables.mq.edu.au/](http://www.timetables.mq.edu.au/)

Students are required to attend 70% of the classes.

**PRIZES**

- Not applicable

**REQUIRED AND RECOMMENDED TEXTS AND/OR MATERIALS**

**Recommended textbooks:**

There are two textbooks for this subject, plus the Legislation for this Unit as follows:


   (Abbrev C)


   (Abbrev M)

**Legislation**

*The Competition and Consumer Act (2010)* (Commonwealth): see Commonwealth Consolidated Legislation at: www.austlii.edu.au

**iLearning**: some materials will be uploaded to iLearning.

**Online law databases available through the university homepage are very useful. These include:**

- **Case Base** facilitates searches for Australian legal materials, and provides links to these. (If a case is not available through one of the commercial reports try the parallel BC….. link.)

- **Hein Online** is for searching journal articles.

- **LexisNexis AU** is for searching local primary (cases, legislation) and secondary (articles) materials.
LexisNexis affords a facility for searching for primary and secondary materials from a number of jurisdictions. Although it focuses on US materials it is also a good source for materials from other jurisdictions.

Westlaw international also provides a trans jurisdictonal search facility for primary and secondary materials.

Some tips for using these databases – click the Natural Language option; key in fewer rather than more words, so as to provide a wider net for searches (for example, take one distinctive word in the title of a case, if the full title does not get a hit); use AND or & in order to narrow a search (for example, waiver & arbitration will ensure that documents retrieved contain both words).

**TECHNOLOGY USED AND REQUIRED**

N/A

**UNIT WEB PAGE**

- Course material is available on the learning management system (iLearn)
  
  There is no web page for this unit.

**LEARNING OUTCOMES**

Each lecture will focus on relevant issues, cases and sections of the Act. Issues such as how to prepare for exams and how to maximise grades will also be addressed with students to be alerted to the importance of skills that will assist learning and problem solving and basic generic (workplace) skills relevant to the development of a successful professional career. Examples include: responding and communicating in class (workplace skills: teamwork, communication, problem-solving, cooperation and the ability to build and maintain professional relations); the ability to comprehend, digest and apply unit content (workplace skills: setting effective and attainable goals, gathering material, creative thinking and exploring new ideas and viewpoints); awareness, perception and effective note-taking in lectures (workplace skills: critical analysis, client interviews and peer meetings).

Overall, the aim of this unit is to introduce students to competition and consumer regulation in Australia and to create an awareness of critical trade practices issues. Within this broad aim are several specific targets that will be accomplished as each Lecture Area is covered. Specifically, the unit aims to assist students to:

* Understand the characteristics of the various forms of trade practices.
* Understand differences in past and present legislative frameworks.
* Distinguish ‘competition’ and ‘consumer’ laws.
* Understand the role of case law with respect to competition and consumer law.
* Understand the ways in which competition and consumer laws may affect company activities.
* Be aware of corporate governance matters including the impact of relevant ethical issues.
* Understand how the Act regulates commercial trade.
* Understand fair trade in the current regulatory environment.
* Analyse and apply the law to solve Competition and Consumer problems.
* Develop an interest in, and an understanding of, current competition and consumer issues.

**GRADUATE CAPABILITIES**

In addition to the discipline-based learning objectives, all academic programs at Macquarie seek to develop the capabilities the University’s graduates will need to develop to address the challenges, and to be effective, engaged participants in their world.

This unit contributes to this by developing the following graduate capabilities:

1. Discipline Specific Knowledge and Skills
2. Critical, Analytical and Integrative Thinking
3. Problem Solving and Research Capability
4. Creative and Innovative
5. Effective Communication
6. Engaged and Ethical Local and Global citizens
7. Socially and Environmentally Active and Responsible
8. Capable of Professional and Personal Judgement and Initiative
9. Commitment to Continuous Learning
10. The ability to generate research outputs that will create new knowledge

**LEARNING AND TEACHING ACTIVITIES**

The class time will be spent reviewing and discussing the materials identified for reading, in light of unit objectives. Classes will take the form of interactive seminars. Students are encouraged to read ahead of class.

**SCHEDULE OF TOPICS**

1. **INTRODUCTION**

   Examines concepts and principles of ‘competition’ and ‘consumer protection’ and considers the history and legislative framework applicable to Australia and NSW. Introduces the *Competition and Consumer Act (2010) (Cth)* - scope and range.

   M Chaps 1 & 2

2. **COMPETITION LAW**

   What is (and is not) a ‘trading corporation’.

   Examines the role and purposes of the ACCC (the regulator), and key agencies. Examines in further detail the concepts of ‘market’ and ‘competition’; the definitions of ‘goods and
services’ and of ‘consumers’. What is the ACCC and what are the roles of the state Departments of Fair Trading?

M Chaps 4 & 5

3 ANTI-COMPETITIVE CONDUCT: CARTELS AND PRICE FIXING

What constitutes ‘anti-competitive’ behaviour including ‘cartels’ and ‘price fixing’? Interpretations and applications of the Act examining relevant case law.

M Chaps 6 & 7

4 MISUSE OF MARKET POWER & BOYCOTTS

Reviews relevant sections of the Act and case law governing market power (and its misuse), mergers and acquisitions. Considers ‘prohibited conduct’ and case examples where the ACCC has both won and lost arguments over the misuse of market power and retail price maintenance (RPM). Also examines prohibited conduct relating to primary and secondary boycotts and the applicable sections and relevant case law.

M Chaps 9, 10, 12 & 13

5 LIABILITY FOR BREACHES OF COMPETITION LAW

Reviews liability for breaches of the Act; considers statutory defences and Court powers to make orders under the Act – with applicable case examples.

M Chap 16

6 (A) MID-TERM EXAM

(B) Introduce Consumer Law: Key concepts, definitions and policy objectives that apply to consumers under the Act.

C Chap 4

7 & 8 CONSUMER LAW

Examines unconscionable conduct, misleading and deceptive conduct and unfair contract terms. Section 18 of the CCA (formerly s 52 of the TPA) is examined in detail along with relevant case law. Specific false representations (s. 29) and unfair sales techniques are examined and students should note that breaches of s. 29 may give rise to criminal as well as civil liability.

C Chaps 5 & 6 (wk 7); 7 & 8 (wk 8)

9 GUARANTEES

Reviews consumer guarantees and agreements; definition of ‘acceptable quality’; warranties against defects and case examples where breaches have been recorded. Product liability, dispute resolution, enforcement and remedies are considered.

C Chaps 9 & 10

10 MANUFACTURERS LIABILITY
Overviews the liability of manufacturers for goods with safety defects. Examines defences available under the Act and the possibility of contributory negligence (s. 137A of the CCA). This topic reviews litigation and arbitration as mechanisms for resolving international commercial disputes.

C Chaps 12-15

11 PUBLIC ENFORCEMENT

Examines criminal prosecutions and public enforcement - including examples of available Court orders. This topic covers the relevant statutory provisions, relevant case law and available defences.

C Chap 13; M Chap 16

12 PRIVATE REMEDIES

This topic examines civil proceedings and remedies related to breaches of guarantees.

C chaps 14 & 15

13 REVIEW AND FINAL EXAM PREPARATION

RESEARCH AND PRACTICE

- This unit uses research from external sources (references)
- This unit gives you practice in applying case law research findings in your assignments
- This unit gives you opportunities to conduct your own research.

RELATIONSHIP BETWEEN ASSESSMENT AND LEARNING OUTCOMES

The assessment scheme is set out below.

Assessment

Note that examinations may incorporate multiple-choice and/or problem-style questions. Unless otherwise advised all examinations are closed book (that is no books, notes etc to be taken into the examination). Timing of assessment may change if this is necessary as a result of unit structure, reorganisation or University scheduling adjustments and students will be notified accordingly.

1: Class presentation [20%]

Students should regard the class presentation as an opportunity to develop an important workplace skill as well as an opportunity to research and prepare a particular area of the unit in more detail. Marks for class presentations will be
determined by the lecturer based upon their perception of the presentation as having achieved, or otherwise, its purpose (this purpose being to inform and interest the class, showing capability with the requisite area of the law and an ability to communicate clearly and engage). Examples of the type of matters that comprise the assessment of a presentation include: structure, clarity, content covered at the appropriate level, evidence of research and understanding, use of resources or aids, showing and engendering interest in the area, timing (particularly as to the duration of the presentation), currency of the material used, presence, originality/creativity and precision.

2: Mid–semester multiple-choice examination [20%]

The specific date and time will be advised in due course - the exam will cover Lecture Areas 1 to 5 inclusive – the exam will be marked electronically - your marks should be available within 2 weeks – your result (your mark) will be your feedback on your performance and will enable you to assess your progress – individual answer sheets will not be re-assessed and if you are unsure of certain aspects of the areas examined (Lecture Area 1 to 5 inclusive) you should re-read the relevant Topics in the texts and re-visit any practice questions attempted – note that Lecture Areas 1-5 will not be re-examined in the final exam. If you do not perform as well as you would have liked in the mid-term exam (or merely want to improve your performance) you should: (a) ensure that you focus on your remaining classes, prepare prior to each class and test your understanding by participating in class discussion; (b) ensure your notes are clear and concise (c) test your understanding of an area by writing practice answers to exam-type questions without looking at books or notes; (d) because the final exam also includes multiple-choice questions, practice understanding the concept behind their preparation by drafting your own questions; (e) read the material prescribed for each Lecture Area; (f) consult your lecturer if, once you have completed the reading for an area, you have any questions.

3: Final exam [60%]

This will be held at the conclusion of the unit in the formal examination period – the exam will cover Lecture Areas 6 to 12 inclusive – the exam may include both
problem-style and multiple-choice questions – to succeed in this exam you will need to have a good grasp of the relevant unit content (ie. the law), be able to analyse and distinguish between alternatives in multiple-choice questions and to be able to identify, analyse and resolve issues arising in a problem-solving format.
<table>
<thead>
<tr>
<th>Summary</th>
<th>Assessment Task 1</th>
<th>Assessment Task 2</th>
<th>Assessment Task 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title/Name</td>
<td>Class presentation</td>
<td>Mid–semester multiple-choice examination</td>
<td>Final exam</td>
</tr>
<tr>
<td>Description</td>
<td>This assessment tests your ability to, address a specific area of the unit and present your research effectively to your class group</td>
<td>This exam is open book (One text book is permitted in the exam) and covers Lecture Areas 1 to 5 inclusive</td>
<td>This exam is open book (One text book is permitted in the exam) and covers Lecture Areas 6 to 12 inclusive</td>
</tr>
<tr>
<td>Due date</td>
<td>On the date allocated for the presentation</td>
<td>To be advised (normally in-class week 6)</td>
<td>This will be held at the conclusion of the unit in the formal examination period</td>
</tr>
<tr>
<td>% Weighting</td>
<td>[20%]</td>
<td>[20%]</td>
<td>[60%]</td>
</tr>
<tr>
<td>Grading method</td>
<td>This assessment component is based on students being able to deliver a presentation that is precise as to the relevant law, informative and engaging for the audience</td>
<td>Each question will require students to discriminate (decide) between a number of responses to a question and select the appropriate response. The exam will be marked electronically</td>
<td>The exam may include both problem-style and multiple-choice questions. For the multiple choice questions selection of the appropriate response is required. These questions will be marked electronically. For problem-style questions students must demonstrate a knowledge of the relevant law and an ability to apply such law to answer (resolve, respond to, deal with) the question.</td>
</tr>
<tr>
<td>Submission method</td>
<td>Throughout semester</td>
<td>Formal examination</td>
<td>Formal examination</td>
</tr>
<tr>
<td>Feedback</td>
<td>Immediate feedback is available from the lecturer</td>
<td>The exam will be marked electronically. Your result (your mark) will be your feedback on your performance and will enable you to assess your progress</td>
<td>Students will receive their final grade at the conclusion of the unit</td>
</tr>
<tr>
<td>Estimated student workload</td>
<td>7+ hours research and preparation plus presenting</td>
<td>Attendance at classes including preparation plus 10+ hours revision</td>
<td>Attendance at classes including preparation plus 20+ hours revision</td>
</tr>
<tr>
<td>Learning outcomes assessed</td>
<td>Assessment Task 1</td>
<td>Assessment Task 2</td>
<td>Assessment Task 3</td>
</tr>
<tr>
<td>----------------------------</td>
<td>------------------</td>
<td>------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>1</td>
<td>Responding and communicating in class</td>
<td>The ability to comprehend, digest and apply unit content</td>
<td>The ability to comprehend, digest and apply unit content</td>
</tr>
<tr>
<td>2</td>
<td>The ability to comprehend, digest and apply unit content</td>
<td>Awareness, perception and effective note-taking in lectures</td>
<td>Awareness, perception and effective note-taking in lectures</td>
</tr>
<tr>
<td>3</td>
<td>Understand the specific target outcomes dealt with in each Lecture Area and in particular research, organise and digest specific allotted topic</td>
<td>Understand: - characteristics of the competition and consumer law - past and present legislative framework - how competition (and anti-competitive behaviour) is interpreted by the Courts - what constitutes misuse of market power - boycotts and liability for breaching competition law.</td>
<td>All of the previous specific target outcomes that are relevant to the coverage of this exam plus: - Be aware of corporate governance matters including the impact of relevant ethical issues. - Understand how shareholders rights are protected. - Understand how the Competition and Consumer Act protects consumers - Understand the current CCA regulatory environment including enforcement and remedies.</td>
</tr>
</tbody>
</table>
### Submission of work

Whenever a student presents any work for assessment (mid and final exams and the class presentation) they should ensure that any applicable conditions are satisfied and that the work is done to the best of their ability. Assessment is an opportunity for students to show that they clearly understand the material and have successfully developed a method of study and can apply the content studied.

### Examinations

<table>
<thead>
<tr>
<th>Graduate capabilities assessed</th>
<th>Assessment Task 1</th>
<th>Assessment Task 2</th>
<th>Assessment Task 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Apply the law clearly to analyse and solve problems relating to competition and consumer law.</td>
<td>Understand competition and consumer issues, in particular the application of the CCA to competition law.</td>
<td>Apply the law clearly to analyse and solve problems relating to competition and consumer law</td>
</tr>
<tr>
<td>5</td>
<td>Develop an interest in, and an understanding of, current competition and consumer issues.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>1a</th>
<th>Discipline specific knowledge and skills</th>
<th>Discipline specific knowledge and skills</th>
<th>Discipline specific knowledge and skills</th>
</tr>
</thead>
<tbody>
<tr>
<td>1b</td>
<td>Effective communication</td>
<td>Problem solving and research capability</td>
<td>Problem solving and research capability</td>
</tr>
<tr>
<td>1c</td>
<td>Problem solving and research capability</td>
<td>Critical, analytical and integrative thinking</td>
<td>Critical, analytical and integrative thinking</td>
</tr>
<tr>
<td>1d</td>
<td>Critical, analytical and integrative thinking</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
NB. A final examination for this unit will be held during the prescribed examination period.

**Academic Honesty**

The nature of scholarly endeavour, dependent as it is on the work of others, binds all members of the University community to abide by the principles of academic honesty. Its fundamental principle is that all staff and students act with integrity in the creation, development, application and use of ideas and information. This means that:

- all academic work claimed as original is the work of the author making the claim
- all academic collaborations are acknowledged
- academic work is not falsified in any way
- when the ideas of others are used, these ideas are acknowledged appropriately.

Further information on the academic honesty can be found in the Macquarie University Academic Honesty Policy at [http://www.mq.edu.au/policy/docs/academic_honesty/policy.html](http://www.mq.edu.au/policy/docs/academic_honesty/policy.html)

**Grades**

Macquarie University uses the following grades in coursework units of study:

- HD - High Distinction
- D - Distinction
- CR - Credit
- P - Pass
- F - Fail

Grade descriptors and other information concerning grading are contained in the Macquarie University Grading Policy which is available at: [http://www.mq.edu.au/policy/docs/grading/policy.html](http://www.mq.edu.au/policy/docs/grading/policy.html)

All final grades in the Department of Accounting and Corporate Governance are determined by a grading committee and are not the sole responsibility of the Unit Coordinator.

Students will be awarded one of these grades plus a Standardised Numerical Grade (SNG). The SNG is not necessarily a summation of the individual assessment components. The final grade and SNG that are awarded reflect the corresponding grade descriptor in the Grading Policy.

In addition – if applicable - there is a requirement to pass the final examination to be awarded a final grade of a Pass or a higher grade.
**GRADING APPEALS AND FINAL EXAMINATION SCRIPT VIEWING**

If, at the conclusion of the unit, you have performed below expectations, and are considering lodging an appeal of grade and/or viewing your final exam script please refer to the following website which provides information about these processes and the cut off dates in the first instance. Please read the instructions provided concerning what constitutes a valid grounds for appeal before appealing your grade.

http://www.businessandeconomics.mq.edu.au/new_and_current_students/undergraduate_current_students/how_do_i/grade_appeals

**SPECIAL CONSIDERATION**

The University is committed to equity and fairness in all aspects of its learning and teaching. In stating this commitment, the University recognises that there may be circumstances where a student is prevented by unavoidable disruption from performing in accordance with their ability. A special consideration policy exists to support students who experience serious and unavoidable disruption such that they do not reach their usual demonstrated performance level. The policy is available at: http://www.mq.edu.au/policy/docs/special_consideration/policy.html

**STUDENT SUPPORT SERVICES**

Macquarie University provides a range of Academic Support Services. Details of these and other services for students can be accessed at http://www.student.mq.edu.au.

**IT CONDITIONS OF USE**

Access to all student computing facilities within the Faculty of Business and Economics is restricted to authorised coursework for approved units. Student ID cards must be displayed in the locations provided at all times.

Students are expected to act responsibly when using University IT facilities. The following regulations apply to the use of computing facilities and online services:

- Accessing inappropriate web sites or downloading inappropriate material is not permitted. Material that is not related to coursework for approved units is deemed inappropriate.
- Downloading copyright material without permission from the copyright owner is illegal, and strictly prohibited. Students detected undertaking such activities will face disciplinary action, which may result in criminal proceedings.

Non-compliance with these conditions may result in disciplinary action without further notice.

Students must use their Macquarie University email addresses to communicate with staff as it is University policy that the University issued email account is used for official University communication.