

MACQUARIE  
UNIVERSITY



FACULTY OF  
BUSINESS AND ECONOMICS

**Unit code: BUSL350**  
**Unit Name: MARKETING AND  
MANAGEMENT LAW**

**First Semester, 2011**

*Department of Marketing & Management*

**MACQUARIE UNIVERSITY  
FACULTY OF BUSINESS AND ECONOMICS  
UNIT GUIDE**

**Year and Semester:** 2011 Semester 1

**Unit convenor:** Julie Zetler

**Prerequisites:** 24cp

**Credit points:** Three

Students in this unit should read this unit outline carefully at the start of semester. 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 provides an understanding of the fundamental principles of marketing law. It is designed to give a knowledge of the legal environment for marketing of goods and services with an emphasis on consumer protection. This unit examines the impact of common law, legislation and self-regulating codes of practice in the market place. The areas that will be covered in the subject include intellectual property rights, product development and promotion, product safety and quality, the regulation of unfair and anti-competitive conduct and electronic marketing and the law. At the end of this unit students will be able to explain the impact of legal rules, remedies and sanction on marketing decisions, explain the principle rules that apply to consumer protection and their application in a competitive system. The unit provides students with a grounding in marketing law that will assist them in understanding the legal framework which operates in relation to marketing decisions and practice.
- This unit is worth 3 credit points

**TEACHING STAFF**

- Convenor and Lecturer: Julie Zetler ([juliezetler@mq.edu.au](mailto:juliezetler@mq.edu.au)) W3A Room 434 Telephone 98507984
- Lecturer: Verity Greenwood ([verity.greenwood@mq.edu.au](mailto:verity.greenwood@mq.edu.au)) W3A room 429, telephone: 9850 7283.

**CONSULTATION TIMES**

- Consultation time with Julie TBA W3A room 434.
- Consultation time with Verity Monday 2.00pm-4.00pm W3A room 429.

- 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. Staff will not conduct any consultations by email. You may, however, phone staff during their consultation hours.
- Students experiencing significant difficulties with any topic in the unit must seek assistance immediately.

## CLASSES

- Number and length of classes: 3 hours face-to-face seminar teaching per week, consisting of 1 x 2 hour lecture and 1 x 1 hour tutorial.
- The timetable for classes can be found on the University web site at: <http://www.timetables.mq.edu.au/>
- Once the tutorial groups are formed, students cannot change their classes.
- Attendance will be taken in the tutorials.
- Warning: You must attend at least 10 of the 12 tutorials – failure to do so will lead to major deduction from your group-work contribution.
- Medical certificates must be provided if you are not able to attend a class without incurring a penalty.
- Students are expected to arrive on time, and not to leave until the class ends.
- If you have a recurring problem that makes you late, or forces you to leave early, have the courtesy to discuss this with your lecturer/tutor.
- Students must be quiet during classes, unless of course when class participation is required.
- Mobile phone must be turned OFF and not simply set to 'silent'.
- All laptops must be turned OFF in class.
- Students who disturb or disrupt in lectures and tutorial class will be asked to leave.

## PRIZES

- None

## REQUIRED AND RECOMMENDED TEXTS AND/OR MATERIALS

- Prescribed text: Clarke B and Sweeney B, *Marketing and the Law*, 4th ed, LexisNexis Butterworths, , 2011, ISBN 9780409327434
- References:  
Gibson, A. and Fraser, D., *Business Law*, 5<sup>th</sup> ed , Pearson Australia, 2011).  
Pentony, B., Graw, S., Lennard, J and Parker, D. *Understanding Business Law*, 5<sup>th</sup> ed, LexisNexis Butterworths, 2011.
- Internet:  
Australasian Legal Information Institute at <http://www.austlii.edu.au>  
Australian Competition & Consumer Commission (ACCC) <http://www.accc.gov.au>  
Consumers' Online Directory <http://www.dist.gov.au/consumer/policy/index.html>  
Copyright Society: <http://www.copyright.org.au>  
ipaustralia [www.ipaustralia.gov.au](http://www.ipaustralia.gov.au) (Responsible for granting rights in patents, trademarks and designs in Australia).
- Week-by-week list of topics – refer attached lecture schedule

## TECHNOLOGY USED AND REQUIRED

- Students are required to learn how to use power point, word processing and blackboard.

## UNIT WEB PAGE

The web page for this unit can be found at: Blackboard <http://learn.mq.edu.au>

## LEARNING OUTCOMES

The learning outcomes of this unit are to:

- (1) Identify and define key terms, concepts and principles related to marketing and management law
- (2) Examine the legal issues and apply the laws protecting intellectual property to the development and marketing of a variety of new products and ideas
- (3) Analyse, evaluate and apply the consumer protection laws to a variety of marketing and advertising strategies
- (4) Evaluate and apply the laws regulating a variety of marketing practices including pricing, distribution, e-marketing and e-commerce
- (5) Consider the legal protection of a product or idea using the intellectual property, marketing and consumer protection laws.

## GRADUATE CAPABILITIES

In addition to the discipline-based learning objectives above, all academic programs at Macquarie University seek to develop the following 8 generic capabilities in our graduates in order to address the challenges, and to be effective, engaged participants

in their world. The Marketing and Management Law unit contributes to this learning by helping students develop the following generic skills (in bold).

**1. Critical, Analytical and Integrative Thinking**

- Critical analysis through exploring legal issues and factual problems in a range of topics related to the course
- Participating in class discussion and debate;
- Critical analysis and discussion in class on current media reports on marketing issues;
- Analysing legal case studies in class and via the exam process.

**2. Problem Solving and Research Capability**

- Application of legal principles to solve factual marketing problems
- Researching in preparation for written assessment assignment;

**3. Creative and Innovative**

- Creative thinking skills in determining and evaluating strategies and policies to improve the effectiveness and operation of the present marketing laws

**4. Effective Communication**

- Participation in class discussions;
- Expressing relevant views and opinions;
- Communicating with people from various background/countries/cultures
- Writing one assignment and exam questions

**5. Engaged and Ethical Local and Global citizens**

- Understand that law requires the highest of ethical standards at all times

**6. Socially and Environmentally Active and Responsible**

- Relevant practical examples applied to enrich the discussion and critique of marketing problems
- Reading current journal, newspapers and magazine articles;

**7. Capable of Professional and Personal Judgement and Initiative**

- Approach marketing law with the ability to make excellent judgments of the situations presented via problems considered in the course.

**8. Commitment to Continuous Learning**

- Self discipline and time management skills;
- Identifying and setting targets;
- Actively participating in class discussions and debate;
- Contribution to a broad range of original and personal insights by other class members

## HR DISCIPLINE COMPETENCIES

1. Understand the relevance of contemporary HR systems and functions to employment relationship and to organisational effectiveness
2. Critically evaluate the role and changing nature of government employers and employees and their representatives in the field of employment and industrial relations policy and practice.
3. An ability to enhance human capital through effective and sustainable recruitment and selection practices
4. An appreciation of key learning and cognition theories and how they link and inform effective human resources development practices
5. Critically analyse factors impacting on an organisation's capacity to successfully manage their human resources in a global context
6. Evaluation of key developments in contemporary HRM theory with the intention to inform practice and devise strategic HRM practices that enhance the operations of diverse organisations.
7. Understand different theoretical perspectives and key principles of managing change effectively and critically assess the phenomenon of sustainability in the context of organisational change
8. Recognise the pivotal role of managing diversity, ethics and sustainability in contemporary organisations

## TEACHING AND LEARNING STRATEGY

- The unit is taught in seminar format and includes lecture and tutorial discussions.
- What is expected from students? Attend tutorials; read in advance; prepare case studies and questions for tutorials; follow current developments in the media; be able to apply concepts in tutorial exercises; respond to questions raised during lectures; demonstrate enthusiasm for the subject. Work effectively individually and in small groups.
- Students please note: The readings, study and assessment for this subject will require approximately 6 hours per week above the 3 hours allocated for the formal seminar time.

The topics to be covered each week are as follows:

### **Session 1:** *week commencing 21 February*

Introduction: Legal Framework, Regulatory bodies and Compliance in Marketing Law.  
Intellectual Property Law and Marketing

- ✓ Read: Chapters 1 and 2 – Clarke & Sweeney
- ✓ Discussion of course assessments, requirements, group structure and seminar questions to be discussed.

### **Session 2:** *week commencing 28 February*

Protecting Inventive Ideas through the Patent system

- ✓ Read: Chapters 2 – Clarke & Sweeney
- ✓ Group finalisation (in tutorials)
- ✓ Revision questions 1, 2, 3 p16; questions 2 & 4, p. 56 Clarke & Sweeney

**Session 3: week commencing 7 March**

Protecting Commercial Secrets- obligation of confidence and protection of trade secrets  
Protecting Commercial Designs

- ✓ Read: Chapter 3 & 5 - Clarke & Sweeney
- ✓ Revision questions – 4, 5 & 6 p56-57 Clarke & Sweeney

**Session 4: week commencing 14 March**

Protecting Copyright Material

- ✓ Read: Chapters 4 – Clarke & Sweeney
- ✓ Revision questions 3, 4, 5. p 84-85; 2, 4 & 6 p. 155-156 Clarke & Sweeney.

**Session 5: week commencing 21 March**

Protection of Tort of Passing Off and Unfair Trading Laws

- ✓ Read: Chapter 6, Clarke & Sweeney
- ✓ Revision questions 1, 2, 3, 4 p. 133 Clarke & Sweeney

**Session 6: week commencing 26 March**

Protection of Trademarks

- ✓ Read: Chapter 7, Clarke & Sweeney
- ✓ Revision questions 1, 2, 3 & 4 p. 201-202 Clarke & Sweeney

**\*\*\*MID-TERM QUIZ\*\*\*  
(in lecture)**

**Session 7: week commencing 4 April**

Misleading or Deceptive Practices; Advertising Regulation

- ✓ Read Chapter 8 & 10
- ✓ Revision questions 1, 2, 3 & 4 p. 257 Clarke & Sweeney

----- **RECESS** -----

**Session 8: week commencing 25 April**

□ Note: There are no classes on Monday 25 April and Tuesday 26<sup>th</sup> April this week because of Public Holidays

Product Liability

- ✓ Read Chapter 9
- ✓ Revision questions 1, 2, 3 & 4 p. 287-288; questions 1 & 3 Clarke & Sweeney

**Session 9: week commencing 2 May**

Legal Regulation of Selling Techniques in the Marketplace  
e-marketing & e-commerce

- ✓ Read Chapter 11 & 19
- ✓ Revision questions 1 & 2 p. 335 Clarke & Sweeney

**\*\*\*MID-SEMESTER ASSIGNMENT DUE 2 MAY\*\*\***

**Session 10: week commencing 9 May**

Introduction to Competition Law

Misuse of Market Power

- ✓ Read Chapter 12 & 14
- ✓ Revision question 1 (a-c) p. 425; question 2, p.651 Clarke & Sweeney

**Session 11: week commencing 16 May**

Collusive conduct

- ✓ Read Chapter 13
- ✓ Revision questions 4 & 5 p. 459; questions 4 & 5, p. 544-545 Clarke & Sweeney

**Session 12: week commencing 23 May**

Resale Price maintenance

Exclusive dealing

- ✓ Read Chapter 16 & 17
- ✓ Revision questions 1, 2 & 3 p. 513-514 Clarke & Sweeney
- ✓

**Session 13: week commencing 30 May**

- Review and revise for final examination
  - ✓ Student generated revision questions
  - ✓ Revision question 3 & 4 p. 584 Clarke & Sweeney

## RESEARCH AND PRACTICE

- This unit uses research by Verity Greenwood:
  - ❖ Julie Zetler, Verity Greenwood, 'Lost in Space: Impact of Sessional and Contract Employment on Academia' (February, 2010) *East Asian Law Conference*, Hong Kong.
  - ❖ Julie Zetler, Verity Greenwood, 'Trapped in a Time Warp: Managing the Effects of Academic Workplace Changes' (July, 2010) *Australasian Law Teachers Association (ALTA)*, Auckland New Zealand.
  - ❖ Verity Greenwood 'Place, Health and Resilience: Widowhood and the Mediating Role of Therapeutic Landscapes' (ongoing PhD), Faculty of Science, Macquarie University.
  
- This unit uses research from the following journals:
  - ❖ Journal of Business Law
  - ❖ Journal of Marketing
  - ❖ Journal of Intellectual Property Law
  - ❖ Journal of Advertising
  
- This unit gives you practice in applying research findings in your assignments
- This unit gives you opportunities to conduct your own research.

**RELATIONSHIP BETWEEN ASSESSMENT AND LEARNING OUTCOMES**

The assessment of the course has the following components:

	<b>Mid-Semester Assignment (30%)</b>	<b>Mid-term quiz (10%)</b>	<b>Final exam (60%)</b>	<b>Total</b>
Description	<p>Each student will be required to answer a research question relating to Marketing Law. The word limit is 1,200 words</p> <p>Assignment will be available to download in Week 2 from unit Blackboard website.</p>	<p>This quiz is 20 minutes held during the Seminar</p> <p>5 short answer questions based on all material covered in session 1 to 5.</p> <p>Closed book examination</p>	<p>The duration of the exam is 3 hour plus 10 minutes held during the exam period.</p> <p>3 essay style questions. Each essay worth 20 marks for a total of 60 marks</p> <p>This is an open book examination.</p>	
Due date	The completed written assignment is due to be handed into BESS on 2 <sup>nd</sup> May, 2011	Session 6 Seminar.	Please check the exam timetable for location and time.	
Marking criteria/standards & expectations	Students are expected to (1) answer the question set for the assignment; (2) conduct appropriate research	This is an early-warning test to see if you have been studying.	n/a	

	<b>Mid-Semester Assignment (30%)</b>	<b>Mid-term quiz (10%)</b>	<b>Final exam (60%)</b>	<b>Total</b>
Submission method	BESS	In Seminar time	n/a	
Feedback	Written feedback for the assignment will be given at completion of marking prior to final exam	Written feedback will be given in Session 7 (week commencing 4 April).	n/a	
Estimated student workload (hours)	30 hours	10 hours	40 hours	80 hours
<b>Learning outcomes assessed:</b>				
1. Understand legal principles applicable to marketing of goods and services in Australia	✓	✓	✓	20%
2. Appreciate the effect of laws on manufacture, packaging, labelling, promotion, distribution and retailing of goods and services	✓	✓	✓	5%
3. Understand the principal rules that emphasise a need for compliance and impose controls on marketing activities	✓	✓	✓	

	<b>Mid-Semester Assignment (30%)</b>	<b>Mid-term quiz (10%)</b>	<b>Final exam (60%)</b>	<b>Total</b>
4. Appreciate the legislation and case law that is relevant to Marketing & Management Law	✓	✓	✓	50%
5. Critically assess and make judgments on the merit of legal arguments	✓	✓	✓	
<b>Graduate capabilities assessed:</b>				
1. Problem Solving & research capability	✓	✓	✓	5%
2. Creative and innovative	✓	✓		10%
3. Effective communications	✓	✓		10%
<b>Total</b>	<b>30%</b>	<b>10%</b>	<b>60%</b>	<b>100%</b>

- Students must attend at least 10 of the 12 tutorials – failure to do so will lead to major deduction of individual work contribution.
- Students may only sit for the test once in your enrolled tutorial class. Failure to sit for this test will result in a zero grade. Students will only be given special consideration for non-attendance under exceptional circumstances, supported by documentary proof (e.g., medical certificates).
- Students who failed their mid-term quiz will be counselled as an early warning that they have to work harder.
- Late submissions (up to 24 hours) will be penalised at 50% of the grade.

## Examinations

A final examination is included as an assessment task for this unit to provide assurance that:

- i) the product belongs to the student and
- ii) the student has attained the knowledge and skills tested in the exam.

A 3-hour final examination for this unit will be held during the University Examination period.

Successful completion of the unit is conditional on a satisfactory assessment in the final exam.

The University Examination period in First Half Year 2011 is from 6 to 24 June.

You are expected to present yourself for examination at the time and place designated in the University Examination Timetable. The timetable will be available in Draft form approximately eight weeks before the commencement of the examinations and in Final form approximately four weeks before the commencement of the examinations <http://www.timetables.mq.edu.au/exam>

The only exception to not sitting an examination at the designated time is because of documented illness or unavoidable disruption. In these circumstances you may wish to consider applying for Special Consideration. Information about unavoidable disruption and the special consideration process is available at <http://www.reg.mq.edu.au/Forms/APSCon.pdf>

If a Supplementary Examination is granted as a result of the Special Consideration process the examination will be scheduled after the conclusion of the official examination period. (Individual Divisions may wish to signal when the Division's Supplementaries are normally scheduled.)

The Macquarie university examination policy details the principles and conduct of examinations at the University. The policy is available at:  
<http://www.mq.edu.au/policy/docs/examination/policy.htm>

## **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>

## **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.businessandconomics.mq.edu.au/for/new\\_and\\_current\\_students/undergraduate/admin\\_central/grade\\_appeals](http://www.businessandconomics.mq.edu.au/for/new_and_current_students/undergraduate/admin_central/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/procedure.html](http://www.mq.edu.au/policy/docs/special_consideration/procedure.html)

### **STUDENT SUPPORT SERVICES**

Macquarie University provides a range of Academic Student Support Services. Details of these services 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 utilising 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 unit 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.