

MACQUARIE
UNIVERSITY



FACULTY OF
BUSINESS AND ECONOMICS

**BUSL350
MARKETING AND
MANAGEMENT LAW**

Semester 2, 2011

Department of Marketing & Management

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

Year and Semester: 2011 Semester 2

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 and management 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 (julie.zetler@mq.edu.au) E4A room 528 Telephone 98507994
- Tutor/Lecturer: Louise Thornthwaite (louise.thornthwaite@mq.edu.au) E4A room 524 Telephone 9850 1163, Verity Greenwood (verity.greenwood@mq.edu.au) E4A room 310, telephone: 9850 7283.

CONSULTATION TIMES

- Consultation time with Julie Thursday 2.00pm-4pm E4A 528.

- Consultation time with Tutor by: Verity- appointment only. Louise – TBA.
- 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 may result in a fail grade.
- 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. Can only be used for lecture/tutorial note taking
- 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:
 - Bowrey, K. Handler, M. Nicol D., *Australian Intellectual Property*, Oxford University Press, 2010
 - Bowrey, K. Handler, M. Nicol, D (ed)., *Emerging Challenges in Intellectual Property*, Oxford University Press, 2011.
 - Butler, D. Rodrick, S. *Australia Media Law*, Thomas Reuter, 3rd ed 2007.
 - Corones, S G. *The Australian Consumer Law*, Thomas Reuter, 2011.
 - Gibson, A. and Fraser, D., *Business Law*, 5th ed, Pearson Australia, 2011.
 - Griggs, L. Clark, E. Iredale, I, (ed) *Managers and the Law*, 3rd ed, Lawbook Company, 2009.
 - Holley, G. *Management and the Law*, Pittman Publishers, 1996.
 - Pentony, B., Graw, S., Lennard, J and Parker, D. *Understanding Business Law*, 5th 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 (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

TEACHING AND LEARNING STRATEGY

- The unit is taught in lecture and tutorial format.
- 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 1 August*

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

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

Session 2: *week commencing 8 August*

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 15 August*

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 22 August*

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 29 August*

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 6 September

Protection of Trademarks

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

*****MID-TERM Quiz***
(In tutorial)**

Session 7: week commencing 12 September

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 3 October

- Note: There are no classes on Monday this week because of Public Holidays

Product Liability and Introduction to Management Law

- ✓ Read Chapter 9 Clarke & Sweeney
- ✓ Part B, Managers and the Law Griggs et al, (available on Blackboard (BB))
- ✓ Revision questions 1, 2, 3 & 4 p. 287-288; questions 1 & 3 Clarke & Sweeney

Session 9: week commencing 10 October

Legal Regulation of Selling Techniques in the Marketplace

e-marketing & e-commerce

- ✓ Read Chapter 11 & 19, Griggs et al, Part A pp31-78
- ✓ Revision questions 1 & 2 p. 335 Clarke & Sweeney, Revision question 8 Griggs p28.

*******MID-TERM Examination*****
(In Lecture)**

Session 10: week commencing 17 October

Introduction to Competition Law

Misuse of Market Power and Business Structures and Agency

- ✓ Read Chapter 12 & 14
- ✓ Chapter 4, Managers and the Law; Chapter 3, Agency: The Manager as Agent (available on Blackboard)
- ✓ Revision question 1 (a-c) p. 425; question 2, p.651 Clarke & Sweeney

Session 11: week commencing 24 October

Collusive conduct and Introduction to Defamation Law

- ✓ Read Chapter 13, Clarke & Sweeney, Read Chapter 5, Gillies & Selvadurai (available BB)
- ✓ Revision questions 4 & 5 p. 459; questions 4 & 5, p. 544-545 Clarke & Sweeney
- ✓ Other references for Defamation Law will be posted on Blackboard.

Session 12: *week commencing 31 October*

Resale Price maintenance

Exclusive dealing

- ✓ Read Chapter 16 & 17
- ✓ Revision questions 1, 2 & 3 p. 513-514 Clarke & Sweeney
- ✓ Readings and tutorial question for defamation will be posted on Blackboard

Session 13: *week commencing 7 November*

- 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 Julie Zetler and 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.
 - ❖ Julie Zetler, 'E-Health: The Legal and Ethical Implications of Electronic Patient Records on Confidentiality and Privacy in Health' (ongoing Doctorate, Faculty of Law, Sydney University)
 - ❖ 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:

	Mid-Semester Examination (30%)	Mid-term quiz (10%)	Final exam (60%)	Total
Description	<p>There will be a multiple choice examination in the lecture time of 30 questions</p> <p>The questions will be taken from topic area weeks 7-9</p> <p>Closed book examination</p>	<p>This quiz is 20 minutes held during the Tutorial class</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 hours plus 10 minutes held during the exam period.</p> <p>1 essay style questions and 1 scenario question. Each question worth 30 marks for a total of 60 marks This is a 'limited' open book examination.</p>	<p>30%</p> <p>10%</p> <p>60%</p>
Due date	<p>The examination will be held in the first lecture after the mid-semester break Week 8 in the Thursday lecture class time, 6 October at 12 md.</p>	<p>Session 6 Tutorial class.</p>	<p>Please check the exam timetable for location and time.</p>	
Marking criteria/standards & expectations	<p>Students are expected to (1) answer the questions set for the</p>	<p>This is an early-warning test to see if you have been studying.</p>	<p>n/a</p>	<p>100%</p>

	Mid-Semester Examination (30%)	Mid-term quiz (10%)	Final exam (60%)	Total
	examination; (2) conduct appropriate research			
Submission method	n/a	In Tutorial time	n/a	
Feedback	Written feedback for the examination will be given at completion of marking prior to final exam	Written feedback will be given in Session 7 (week commencing 12 September)	n/a	
Estimated student workload (hours)	30 hours	10 hours	40 hours	80 hours
Learning outcomes assessed:				
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	✓	✓	✓	

	Mid-Semester Examination (30%)	Mid-term quiz (10%)	Final exam (60%)	Total
activities				
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	✓	✓	✓	
Graduate capabilities assessed:				
1. Problem Solving & research capability	✓	✓	✓	5%
2. Creative and innovative	✓	✓		10%
3. Effective communications	✓	✓		10%
Total	30%	10%	60%	100%

- 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

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.

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

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.