MKTG350
Marketing and Management Law
D2 2012

Marketing and Management

Contents

General Information 2
Learning Outcomes 3
Assessment Tasks 3
Delivery and Resources 5
Unit Schedule 7
Policies and Procedures 8
Graduate Capabilities 10
Research and Practice 14

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## General Information

### Unit convenor and teaching staff
Tutor /lecturer
Vera Babicheva
vera.babicheva@mq.edu.au
Contact via vera.babicheva@mq.edu.au
Room 528 Building E4A
Tuesdays at 2pm-3pm or by appointment

Unit Convenor
Julie Zetler
julie.zetler@mq.edu.au
Contact via julie.zetler@mq.edu.au
Monday 1-2pm; Tuesday 5-6pm

### Credit points
3

### Prerequisites
24cp

### Corequisites

### Co-badged status

### Unit description
This unit examines the law relating to marketing and media issues with a focus on the regulation of advertising and promotional activities. The law relating to defamation and the potential defences available to journalists and information providers is analysed. The laws governing copyright, designs, trade marks and patents are considered with close reference to the case law and legislation. Competition law is examined in some detail and includes the law relating to exclusive dealings and misuse of market power. Finally, the consumer protection provisions in the trade practices legislation are analysed in the context of modern marketing practice.

## Important Academic Dates
Information about important academic dates including deadlines for withdrawing from units are available at [http://students.mq.edu.au/student_admin/enrolmentguide/academicdates/](http://students.mq.edu.au/student_admin/enrolmentguide/academicdates/)
Learning Outcomes

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.

Assessment Tasks

<table>
<thead>
<tr>
<th>Name</th>
<th>Weighting</th>
<th>Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>Essay</td>
<td>30%</td>
<td>Week 9</td>
</tr>
<tr>
<td>Group Assessment</td>
<td>30%</td>
<td>Week 2-12</td>
</tr>
<tr>
<td>Final Examination</td>
<td>40%</td>
<td>University Examination Period</td>
</tr>
</tbody>
</table>

Essay

Due: **Week 9**
Weighting: **30%**

**Submission**
Will be submitted in tutorial in week 9

**Extension**
No extension will be granted without documentary evidence and a Special Consideration form lodged

**Penalties**
Late submissions (up to 24 hours) will be penalised at 50% of the grade

What is required to complete the unit satisfactorily

All assessment tasks need to be attempted and the final examination passed to attain a pass grade or better

This Assessment Task relates to the following Learning Outcomes:
Unit guide MKTG350 Marketing and Management Law

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

Group Assessment
Due: Week 2-12
Weighting: 30%

Submission
Presentations will be presented in allocated tutorials Report will be handed in at the tutorial

Extension
Students will only be given special consideration under exceptional circumstances, supported by documentary proof eg Medical certificates

Penalties
Failure to present will result in a zero grade

What is required to complete the unit satisfactorily
Pass the final exam and attempt all other assessments

This Assessment Task relates to the following Learning Outcomes:
- Identify and define key terms, concepts and principles related to marketing and management law
- Examine the legal issues and apply the laws protecting intellectual property to the development and marketing of a variety of new products and ideas
- Analyse, evaluate and apply the consumer protection laws to a variety of marketing and advertising strategies
- Evaluate and apply the laws regulating a variety of marketing practices including pricing, distribution, e-marketing and e-commerce
Consider the legal protection of a product or idea using the intellectual property, marketing and consumer protection laws.

Final Examination
Due: University Examination Period
Weighting: 40%

Examination conditions
To be held during the university formal examination period

What is required to complete the unit satisfactorily
Students are required to pass the final examination to pass the unit

This Assessment Task relates to the following Learning Outcomes:
• Identify and define key terms, concepts and principles related to marketing and management law
• Examine the legal issues and apply the laws protecting intellectual property to the development and marketing of a variety of new products and ideas
• Analyse, evaluate and apply the consumer protection laws to a variety of marketing and advertising strategies
• Evaluate and apply the laws regulating a variety of marketing practices including pricing, distribution, e-marketing and e-commerce
• Consider the legal protection of a product or idea using the intellectual property, marketing and consumer protection laws.

Delivery and Resources

Classes
• Number and length of classes: 3 hours face-to-face teaching per week, consisting of 1 x 2 hour lecture and 1 x 1 hour tutorial.
• Lecture Friday (please confirm day and location closer to teaching time).
• 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 required to pass the exam to gain a pass in the unit
• 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, unless student is using the laptop to write class notes.
• 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 a required text and can be purchased from the University Co-op Bookshop.
This text book is available in the library.

References:
Rimmer M, Digital Copyright and the Consumer Revolution (2007, Edward Elgar Publications)

Internet:
1. Australasian Legal Information Institute at http://www.austlii.edu.au
4. Copyright Society: http://www.copyright.org.au
5. IP Australia www.ipaustralia.gov.au (Responsible for granting rights in patents, trademarks and design in Australia).

Technology Used and Required
Students are required to learn how to use power point, word processing and iLearn.

Unit Web Page
The web page for this unit can be found at: iLearn http:ilearn.mq.edu.au

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.

Unit Schedule

<table>
<thead>
<tr>
<th>Session</th>
<th>Lecture Topic</th>
<th>Required Readings</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Protecting Inventive Ideas through the Patent system</td>
<td>Chapter 2, Clarke &amp; Sweeney</td>
</tr>
<tr>
<td></td>
<td>Group finalisation (in tutorials)</td>
<td></td>
</tr>
<tr>
<td>Week</td>
<td>Topic</td>
<td>Relevant Resources</td>
</tr>
<tr>
<td>------</td>
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</tr>
<tr>
<td>3</td>
<td>Protecting Commercial Secrets-obligation of confidence and protection and protection of trade secrets</td>
<td>Chapter 3 &amp; 5, Clarke &amp; Sweeney</td>
</tr>
<tr>
<td></td>
<td>Protecting Commercial Designs</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Protecting Copyright Material</td>
<td>Chapter 4, Clarke &amp; Sweeney</td>
</tr>
<tr>
<td>5</td>
<td>Protection of Tort of Passing Off and Unfair Trading Laws</td>
<td>Chapter 6, Clarke &amp; Sweeney</td>
</tr>
<tr>
<td>6</td>
<td>Protection of Trademarks</td>
<td>Chapter 7, Clarke &amp; Sweeney</td>
</tr>
<tr>
<td>7</td>
<td>Misleading or Deceptive Practices; Advertising Regulation</td>
<td>Chapter 8 &amp; 10</td>
</tr>
<tr>
<td></td>
<td><strong>Mid Semester Break</strong></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Product Liability and introduction to Agency Law</td>
<td>Chapter 9, notes will be provided on iLearn on Agency Law</td>
</tr>
<tr>
<td>9</td>
<td>Legal Regulation of Selling Techniques in the Marketplace e-marketing &amp; e-commerce</td>
<td>Chapter 11 &amp; 19</td>
</tr>
<tr>
<td>10</td>
<td>Introduction to Competition Law Misuse of Market Power</td>
<td>Chapter 12 &amp; 14</td>
</tr>
<tr>
<td>11</td>
<td>Collusive conduct and Defamation Law</td>
<td>Chapter 13, Clarke &amp; Sweeney, notes on Defamation Law available on iLearn</td>
</tr>
<tr>
<td>12</td>
<td>Resale Price maintenance</td>
<td>Chapter 16 &amp; 17</td>
</tr>
<tr>
<td>13</td>
<td>Review and revise for final examination</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Student generated revision questions</td>
<td></td>
</tr>
</tbody>
</table>

### Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](http://www.mq.edu.au/policy/docs/policy_central). Students should be aware of the following policies in particular with regard to Learning and Teaching:

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:


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.

Special Consideration Policy
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
Macquarie University provides a range of Academic Student Support Services. Details of these services can be accessed at: http://students.mq.edu.au/support/.

UniWISE provides:
• Online learning resources and academic skills workshops http://www.mq.edu.au/learning_skills/
• Personal assistance with your learning & study related questions.
• The Learning Help Desk is located in the Library foyer (level 2).
• Online and on-campus orientation events run by Mentors@Macquarie.

Student Enquiry Service
Details of these services can be accessed at http://www.student.mq.edu.au/ses/.

Equity Support
Students with a disability are encouraged to contact the Disability Support Unit who can provide appropriate help with any issues that arise during their studies.

IT Help
If you wish to receive IT help, we would be glad to assist you at http://informatics.mq.edu.au/help/.

When using the university's IT, you must adhere to the Acceptable Use Policy. The policy applies to all who connect to the MQ network including students and it outlines what can be done.

Graduate Capabilities
Creative and Innovative
Our graduates will also be capable of creative thinking and of creating knowledge. They will be imaginative and open to experience and capable of innovation at work and in the community. We want them to be engaged in applying their critical, creative thinking.

This graduate capability is supported by:
Learning outcome

• Consider the legal protection of a product or idea using the intellectual property, marketing and consumer protection laws.

Assessment task

• Group Assessment

Problem Solving and Research Capability

Our graduates should be capable of researching; of analysing, and interpreting and assessing data and information in various forms; of drawing connections across fields of knowledge; and they should be able to relate their knowledge to complex situations at work or in the world, in order to diagnose and solve problems. We want them to have the confidence to take the initiative in doing so, within an awareness of their own limitations.

This graduate capability is supported by:

Learning outcomes

• Examine the legal issues and apply the laws protecting intellectual property to the development and marketing of a variety of new products and ideas
• Analyse, evaluate and apply the consumer protection laws to a variety of marketing and advertising strategies
• Consider the legal protection of a product or idea using the intellectual property, marketing and consumer protection laws.

Assessment tasks

• Essay
• Group Assessment
• Final Examination

Effective Communication

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication technologies as appropriate.

This graduate capability is supported by:

Learning outcomes

• Examine the legal issues and apply the laws protecting intellectual property to the development and marketing of a variety of new products and ideas
Evaluate and apply the laws regulating a variety of marketing practices including pricing, distribution, e-marketing and e-commerce

Assessment tasks

- Essay
- Group Assessment
- Final Examination

Discipline Specific Knowledge and Skills

Our graduates will take with them the intellectual development, depth and breadth of knowledge, scholarly understanding, and specific subject content in their chosen fields to make them competent and confident in their subject or profession. They will be able to demonstrate, where relevant, professional technical competence and meet professional standards. They will be able to articulate the structure of knowledge of their discipline, be able to adapt discipline-specific knowledge to novel situations, and be able to contribute from their discipline to inter-disciplinary solutions to problems.

This graduate capability is supported by:

Learning outcomes

- Identify and define key terms, concepts and principles related to marketing and management law
- Examine the legal issues and apply the laws protecting intellectual property to the development and marketing of a variety of new products and ideas
- Analyse, evaluate and apply the consumer protection laws to a variety of marketing and advertising strategies
- Evaluate and apply the laws regulating a variety of marketing practices including pricing, distribution, e-marketing and e-commerce

Assessment tasks

- Essay
- Group Assessment
- Final Examination

Critical, Analytical and Integrative Thinking

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate and synthesise learning and knowledge from a range of sources and environments; to be able to critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:
Learning outcomes

• Identify and define key terms, concepts and principles related to marketing and management law
• Examine the legal issues and apply the laws protecting intellectual property to the development and marketing of a variety of new products and ideas
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• Consider the legal protection of a product or idea using the intellectual property, marketing and consumer protection laws.

Assessment tasks

• Essay
• Group Assessment
• Final Examination

Capable of Professional and Personal Judgement and Initiative

We want our graduates to have emotional intelligence and sound interpersonal skills and to demonstrate discernment and common sense in their professional and personal judgement. They will exercise initiative as needed. They will be capable of risk assessment, and be able to handle ambiguity and complexity, enabling them to be adaptable in diverse and changing environments.

This graduate capability is supported by:

Learning outcomes

• Identify and define key terms, concepts and principles related to marketing and management law
• Examine the legal issues and apply the laws protecting intellectual property to the development and marketing of a variety of new products and ideas
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• Consider the legal protection of a product or idea using the intellectual property, marketing and consumer protection laws.
Assessment tasks

• Essay
• Final Examination

Research and Practice

This unit uses research by:

• Julie Zetler, ‘Legal and Ethical Impact of Electronic Health Records on Privacy and Confidentiality’ (Doctorate, Faculty of Law, University of Sydney, complete 2012)

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.