



ACCG953

Competition and Consumer Law

S1 Evening 2014

Dept of Accounting & Corporate Governance

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General Information

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Credit points

4

Prerequisites

ACCG614 or admission to MAdvProfAcc or MCorpGvnce prior to 2013

Corequisites

Co-badged status

Unit description

This unit offers students the opportunity to understand a broad range of competition and consumer law under the Competition and Consumer Act 2010 (Cth). It examines consumer protection and fair trading laws, enforcement mechanisms, contract terms, consumer protection and guarantees, competition and consumer policies in Australia.

Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

Learning Outcomes

On successful completion of this unit, you will be able to:

Analyse and comprehend the characteristics and framework of Australian competition and consumer laws.

Develop professional judgement in the various ways that competition and consumer laws are applied, and how these impact on individual consumers, manufacturers and companies.

Critically evaluate key competition and consumer issues, in particular those that relate to unfair competition and misleading and deceptive conduct.

Understand the relationship between trading enterprises and consumer rights.

Analyse relevant consumer case law and applications of the Act.

Develop an interest in, and an understanding of, current consumer law issues.

Assessment Tasks

Name	Weighting	Due
<u>1. Class Test</u>	20%	Week 4 and Week 7
<u>2. Case Study</u>	20%	In week 8
<u>3. Final Examination</u>	60%	University Examination Period

1. Class Test

Due: **Week 4 and Week 7**

Weighting: **20%**

Two class tests will be assessed as follows:

Submission: Students will complete the tests in class, and the unit co-ordinator will collect the papers from students. If you are late, you will not be allowed to resit the test. If you miss the test because of illness you can re-sit upon production of satisfactory medical certificate and approval from the unit co-ordinator via the normal exemption process.

Marking criteria: The tests will be 15-20 multiple-choice questions and marked out of a possible 10 marks. Week 4 class test is a diagnostic test which means it assesses students on progress to date and allows time to address potential challenges in subsequent classes. The questions will be based on the learnings covered during classes week 1-4 inclusive to ensure students have a thorough foundation of understanding. And, week 7 test will include questions from week 5-7.

Extension: No extensions will be granted.

Penalties: None, however if the test is not taken students will forfeit any marks for this assessment task.

On successful completion you will be able to:

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- Develop an interest in, and an understanding of, current consumer law issues.

2. Case Study

Due: **In week 8**

Weighting: **20%**

Submission: In-class submission of a 2000 word essay. Students will be allocated one consumer law case and asked to analyse the key issues involved.

The purpose of this assessment is to allow the students analyse a relevant case and communicate their level of understanding of key concepts, theories and issues in writing. It is expected that each student will be able to discuss their case study during the semester. Case study questions will be allocated in week 1 of session.

Marking Criteria: This assessment task allows the students to display written communication skills to explain the key case law concepts. To achieve a distinction or high distinction equivalent score, students must be knowledgeable on their allocated case study and demonstrate the ability to coherently answer the questions posed. The essay is to be no more than 2000 words.

Extension: No extensions will be granted.

Penalties: Failure to submit will result in no marks being awarded for this assessment task.

On successful completion you will be able to:

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- Critically evaluate key competition and consumer issues, in particular those that relate to unfair competition and misleading and deceptive conduct.

- Understand the relationship between trading enterprises and consumer rights.
- Develop an interest in, and an understanding of, current consumer law issues.

3. Final Examination

Due: **University Examination Period**

Weighting: **60%**

A final examination is included as an assessment task to provide assurance that the student has attained the knowledge and skills tested in the exam.

A final two and a half hour (2.5) hour examination for this unit will be held during the University examination period. All material covered in the course is examinable. It is an open book examination. Further details will be made available via iLearn.

The only exception to not sitting an examination at the designated time is because of documented illness or unavoidable disruption. In such circumstances students may wish to apply for Special Consideration.

Further details are available here:

http://www.mq.edu.au/policy/docs/special_consideration/policy.html

Marking Criteria: The examination represents 60% of the student's overall assessment for this unit. The examination will normally consist of a multiple-choice format in one section followed by two indepth (short essay) questions in the next section. Questions in the latter section are designed to test student's ability to demonstrate knowledge and understanding of the key topics and issues covered in the unit. Students must pass the final examination in order to achieve a passing grade for the unit. Special consideration in the final examination can only be applied for by students with a minimum of 45% in the coursework assessments completed up to the application closing date.

Extension: None provided.

Penalties: Students will not receive any marks for this assessment task if they fail to sit the examination. If a Supplementary Examination is granted as a result of the Special Consideration process the examination will be scheduled as per the Supplementary Examination timetable of the Faculty. Please note that the supplementary exam will be of similar format to the final exam.

On successful completion you will be able to:

- Analyse and comprehend the characteristics and framework of Australian competition and consumer laws.
- Develop professional judgement in the various ways that competition and consumer laws

are applied, and how these impact on individual consumers, manufacturers and companies.

- Critically evaluate key competition and consumer issues, in particular those that relate to unfair competition and misleading and deceptive conduct.
- Analyse relevant consumer case law and applications of the Act.
- Develop an interest in, and an understanding of, current consumer law issues.

Delivery and Resources

Classes:

Classes will progress through the various Lecture Areas referred to in this Unit Guide. There is one seminar each week (time allotted 3 hours).

The timetable for classes can be found on the University web site at:

<http://www.timetables.mq.edu.au>

Required and Recommended Texts and Materials:

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

1. Corones, S. G. (2013) *The Australian Consumer Law (2nd Edn)*, Thomson Reuters Lawbook Co., Pymont.

(Abbrev C)

2. Miller, R. V. (2012) *Australian Competition Law and Policy (2nd Edn)*, Thomson Reuters Lawbook Co., Pymont.

(Abbrev M)

Legislation

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

Texts can be purchased from the Macquarie University Co-op Bookshop, and are available in the Macquarie University library.

Other useful websites: www.smh.com.au; www.fairtrading.nsw.gov.au

By using www resources students are able to gain a perspective on their studies and be aware of real world situations where competition and consumer law is relevant. Newspaper coverage of various consumer law cases give depth and realism to the formal explanations of the law in texts. Unit Web Page Course materials are also available on iLearn.

Teaching and Learning Strategy Students should take responsibility for their own learning and this will incorporate reading as required, attendance at classes, developing effective study strategies, reflection on their abilities, and a task oriented approach to assessment – that is, do not think solely about your input (gathering information) think about what will be required, what makes for successful performance in tests, how will you use the law you have studied?

There are 2 main components of successful competition and consumer law study: one is that students must have some knowledge of the core issues [take short clear notes in lectures, think about your tasks, involve yourself in classes]; the second is that students will be more successful if they can apply what they have learned, that is, in your test, final exam and other assessment such as your case study. For instance, you have to be able to use consumer protection law to solve problems or to clearly explain issues.

Classes should be used by students to test their understanding of the unit in an environment where immediate feedback is available from the lecturer – students should be prepared to respond to, and ask, questions – being active is an important aspect of both study and professional practice and classes will be of more benefit to all students if they are willing to participate. Students are expected to attend classes. Where any issue arises as to a student's performance it may be necessary to consider whether they have attended all the classes.

Technology Used and Required: Students must be familiar with iLearn. Students are required to conduct their own research and need to be familiar with Internet search engines.

Unit Schedule

Week 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.

Miller Chaps 1 & 2

Week 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?

Miller Chaps 4 & 5

Week 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

Week 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

Week 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 REVIEW COMPETITION LAW AND INTRODUCE CONSUMER LAW

Review key competition cases and concepts; clarify definitions and policy objectives and examples of consumer laws.

Corones Chaps 1, 2 & 3

Week 7 In class test

Week 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.

Corones Chaps 4, 5 & 6 (wk 7); 7 & 8 (wk 8)

Week 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 & 15

10 PRODUCT RECALL AND 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 11-12

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 chapt 14

Week 13 **Revision and Final examination guidance**

Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](#). Students should be aware of the following policies in particular with regard to Learning and Teaching:

Academic Honesty Policy http://mq.edu.au/policy/docs/academic_honesty/policy.html

Assessment Policy <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy <http://mq.edu.au/policy/docs/grading/policy.html>

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Grievance Management Policy http://mq.edu.au/policy/docs/grievance_management/policy.html

Disruption to Studies Policy http://www.mq.edu.au/policy/docs/disruption_studies/policy.html *The Disruption to Studies Policy is effective from March 3 2014 and replaces the Special Consideration Policy.*

In addition, a number of other policies can be found in the [Learning and Teaching Category](#) of Policy Central.

Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: https://students.mq.edu.au/support/student_conduct/

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.businessandeconomics.mq.edu.au/new_and_current_students/undergraduate_current_students/how_do_i/grade_appeals/

Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

Learning Skills

Learning Skills (mq.edu.au/learningskills) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)

- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

Student Services and Support

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

Student Enquiries

For all student enquiries, visit Student Connect at ask.mq.edu.au

IT Help

For help with University computer systems and technology, visit <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.

Graduate Capabilities

PG - Critical, Analytical and Integrative Thinking

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

Learning outcomes

- Develop professional judgement in the various ways that competition and consumer laws are applied, and how these impact on individual consumers, manufacturers and companies.
- Critically evaluate key competition and consumer issues, in particular those that relate to unfair competition and misleading and deceptive conduct.
- Understand the relationship between trading enterprises and consumer rights.
- Analyse relevant consumer case law and applications of the Act.

Assessment tasks

- 1. Class Test
- 2. Case Study
- 3. Final Examination

PG - Research and Problem Solving Capability

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

This graduate capability is supported by:

Learning outcomes

- Analyse and comprehend the characteristics and framework of Australian competition and consumer laws.
- Develop professional judgement in the various ways that competition and consumer laws are applied, and how these impact on individual consumers, manufacturers and companies.

Assessment tasks

- 1. Class Test
- 2. Case Study
- 3. Final Examination

PG - Capable of Professional and Personal Judgment and Initiative

Our postgraduates will demonstrate a high standard of discernment and common sense in their professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

Learning outcomes

- Analyse and comprehend the characteristics and framework of Australian competition and consumer laws.
- Develop professional judgement in the various ways that competition and consumer laws are applied, and how these impact on individual consumers, manufacturers and companies.
- Critically evaluate key competition and consumer issues, in particular those that relate to unfair competition and misleading and deceptive conduct.
- Understand the relationship between trading enterprises and consumer rights.
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- Develop an interest in, and an understanding of, current consumer law issues.

Assessment tasks

- 1. Class Test
- 2. Case Study
- 3. Final Examination

Research and Practice

In addition to the course materials and textbook, students are encouraged to consult different sources and search for external reading materials and practical reports. This will enhance their understanding of the unit concepts and support their learning process.