



# MKTG350

## Marketing and Management Law

S2 Day 2019

*Department of Marketing*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Unit Convenor

Professor Robin Woellner

[robin.woellner@mq.edu.au](mailto:robin.woellner@mq.edu.au)

Contact via Email

12-12.30 pm Wednesday by appointment

Oliver Manlutac

[oliver.manlutac@mq.edu.au](mailto:oliver.manlutac@mq.edu.au)

Credit points

3

Prerequisites

39cp at 100 level or above

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, trademarks 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 <https://www.mq.edu.au/study/calendar-of-dates>

## Learning Outcomes

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

Identify and define key terms, concepts, values and principles related to marketing and management law and ethics

Examine the legal and ethical considerations related to the protection of intellectual

property development and marketing of a variety of new products and ideas

Analyse, evaluate and apply the consumer protection and relevant market manipulation laws to a variety of marketing and advertising strategies

Evaluate and apply ethical considerations and laws regulating a variety of marketing practices including pricing, distribution, e-marketing and e-commerce

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#">Quiz 1</a>	10%	No	week 5
<a href="#">Individual Essay</a>	30%	No	week 9
<a href="#">Quiz 2</a>	10%	No	week 11
<a href="#">Final Examination</a>	50%	No	University Examination Period

### Quiz 1

Due: **week 5**

Weighting: **10%**

Quiz 1 is designed to test students' analytical thinking and analytical skills in identifying and solving basic marketing law concepts embodied in a multiple-choice question format.. It also serves a crucial early diagnostic function by providing an early indication for students and staff on whether and how well students are adapting to and assimilating legal concepts and approaches.

**Details** of the Quiz requirements including the format, submission details and marking criteria will be available on iLearn.

**Type of collaboration:** Individual

**Submission:** In class

**Format:** Please refer to the iLearn Uni page.

**Length:** 10 minutes, multiple-choice and short answer.

**Non-Attendance:**

Students who do not attend the class quiz will be awarded a mark of '0' for the task, except for cases in which an application for special consideration is submitted and approved.

On successful completion you will be able to:

- Identify and define key terms, concepts, values and principles related to marketing and management law and ethics

## Individual Essay

Due: **week 9**

Weighting: **30%**

The essay tests students' development of analytical and critical thinking skills in addressing a multi-faceted legal marketing problem; requires students to research a range of literature, case-law and legislation (as well as integrating socio-political and related issues) relevant to the essay topic; draw together and critically analyse these materials and use them to construct a coherent, well-reasoned and balanced academic argument which places those arguments in a practical/socio-political context.

**Details** of the Essay requirements including the format, submission details and marking criteria will be available on iLearn.

**Type of collaboration:** Individual

**Submission:** Please submit via the Turnitin Link on iLearn.

**Format:** Please refer to the iLearn Unit page

**Length:** 1600 words +/- 10%

**Inherent task requirements:** None

On successful completion you will be able to:

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

## Quiz 2

Due: **week 11**

Weighting: **10%**

Quiz 2 plays an important role in helping to refine students' development and understanding of increasingly sophisticated concepts and materials in marketing law, and their ability to use those concepts and materials to analyse and solve complex issues thrown up by case-law and legislation; it also continues the diagnostic process of indicating to students and staff where individual (or groups of) students are finding difficulty with materials.

**Details** of the Quiz requirements, including the format, submission details and marking criteria will be available on iLearn.

**Type of collaboration:** Individual

**Submission:** In class

**Format:** Please refer to the iLearn Unit page

**Length:** 10 minutes multiple-choice and short answer

**Non-attendance:** Students who do not attend the class Quiz will be awarded a mark of '0' for the task, except for cases in which an application for special consideration is submitted and approved.

On successful completion you will be able to:

- Identify and define key terms, concepts, values and principles related to marketing and management law and ethics

## Final Examination

Due: **University Examination Period**

Weighting: **50%**

The open-book examination provides an opportunity to test students' understanding of the concepts underpinning the course and course materials. Because the examination is open-book and problem-based, it provides a clear demonstration of the extent to which students have understood and are able to analyse the marketing law issues arising from a range of practical situations of varying complexity and apply their knowledge and skill to use the relevant legal principles in developing a well-balanced and credible approach to the possible resolution of those issues.

**Type of collaboration:** Individual

**Submission:** Within the exam venue

**Format:** Please refer to the iLearn Unit page.

**Length:** 3 hours (plus additional time for disability and other cases)

**Inherent task requirements:** None

On successful completion you will be able to:

- Identify and define key terms, concepts, values and principles related to marketing and management law and ethics
- Examine the legal and ethical considerations related to the protection of intellectual property development and marketing of a variety of new products and ideas
- Analyse, evaluate and apply the consumer protection and relevant market manipulation

laws to a variety of marketing and advertising strategies

- Evaluate and apply ethical considerations and laws regulating a variety of marketing practices including pricing, distribution, e-marketing and e-commerce

## Delivery and Resources

### Textbook

Sweeney BJ, Bender M and Courmadias N, *Marketing and the Law* (5th edn) Lexis Nexis Butterworths, 2015.

### Classes

Number and length of classes: 1 X 2 hour lecture (Friday 12-2pm) and 1 X 1 hour tutorial for a total of 3 hours face-to-face teaching per week

**Please note:** the above information may be subject to timetable room change - students must check final timetable before classes commence for confirmation of lecture/tutorial locations. The timetable for classes can be found on the University web site at <http://www.timetable.mq.edu.au/>

### Lecture Information

Lectures are recorded for the main purpose of student 'revision' - not generally as a substitute for attending 'face-to-face' lectures. You are strongly encouraged to attend all the lecture program.

Signed attendance sheet is not required for lectures

Due to the evolving legal environment in the marketing/management/law area - lecture slides on iLearn may be subject to updates and other changes.

### Tutorial Information

Students must attend their assigned tutorial class

Tutorials start in week 2 of the semester

**Please note:** The Unit Convenor/Lecturer/Tutors cannot change your tutorial times, any tutorial changes must be finalised through formal Department online processes

It is expected that you come to tutorial classes prepared to discuss relevant materials and concepts. This means doing the necessary readings and answering tutorial problems before the tutorial class

Attendance record will be taken at each tutorial session.

Please ensure that you sign the tutorial attendance sheet: if you miss a tutorial please contact your tutor via email (not the Unit Convenor), and provide the necessary documentation if required (e.g. medical certificate, etc.) to your tutor. In special circumstances, if your tutorial absence is going to be longer than two weeks (continuing) you may need to notify the Unit Convenor, as well as your tutor.

**Warning:** students must attend at least 10 out of 12 tutorials - failure to do this may affect your final grade

Students are to arrive on time and not leave until the end of class

Mobile phones must be switched off and not simply put on 'silent'

No photographs or recording without prior permission from lecturer/tutor

Laptops/computers must only be utilised for official class purposes such as writing notes. Not as entertainment or a 'catch-up' with social media

Students who disturb or disrupt in lectures and/or tutorial will be asked to leave

Students are required to prepare reading/questions for tutorial classes and engage in class discussion

The tutorial questions and sessions are designed to initiate active student participation of the subject material. **Please note:** tutorials are not a catch-up substitute mini lecture!

### Summary of Requirements:

You need the required tutorial attendance, as well as *attempting each of the assessment tasks* outlined in the unit guide in order to gain a minimum pass of 50% in the course. Students are not required to gain a pass mark in the exam (or in other assessment tasks) to pass the subject.

### Technology Used

The course will make use of iLearn and email for communication with the teaching staff and between students.

Students will need access to a reliable Internet service to complete this unit.

Course material is available on the learning management system (iLearn). <https://ilearn.mq.edu.au/login.MQ/>

Number and length of classes: 3 hours face-to-face teaching per week for 13 weeks

You are required to check for updated iLearn information for this subject on a weekly bases.

Your assessment grades, i.e. quiz, essay, etc (once finalised) will be posted on Grade Book - it is your responsibility to contact your tutor within a reasonable time frame in relation to any discrepancies.

## Unit Schedule

Session	Lecture Topic	Tutorial Questions for discussion (located under the Assessment icon in iLearn)
Week 1	<b>Introduction to Law and Marketing</b> : Legal Framework, Regulatory Bodies and Compliance in Marketing Law, Law of Competitive Advantage and International Law  Chapter 1 Sweeney, Bender and Courmadias, <i>Marketing and the Law</i> (textbook)	No Tutorials this week (Week 1)

Week 2	<p><b>Introduction to Intellectual Property and Marketing:</b> Protecting Inventive Ideas through the Patent System</p> <p>Chapter 2, Sweeney, et al.</p> <p><b>Tutorial groups commence this WEEK</b> (see iLearn (assessment icon) for tutorial questions)</p>	Introduction to Marketing Law
Week 3	<p><b>Introduction to Breach of Confidence: Protecting Commercial Secrets -obligation of confidence and protection and protection of trade secrets:</b> Sweeney et al Chapter 3</p> <p><b>Protecting Commercial Designs:</b> Chapter 5, Sweeney, et al.</p>	Protecting Inventive Ideas
Week 4	<p><b>Introduction to Copyright Material:</b> Protecting Copyright Material: Chapter 4, Sweeney,et al.</p> <p><b>QUIZ 1 NEXT WEEK</b></p>	<p>* Protecting Commercial secrets</p> <p>* Design Law</p>
Week 5	<p><b>* Passing Off</b></p> <p><b>QUIZ 1</b></p> <p><b>* Unfair Trading:</b> Chapter 6, Sweeney,et al</p> <p><b>QUIZ 1 - in-class (Chapters 1-3, Sweeney et al). Content includes lecture and tutorial content in weeks 1-3.</b></p>	<p><b>Quiz</b> - in class quiz 10%. 10 minutes, closed book</p> <p>Copyright</p>
Week 6	<p><b>* Protection of Trademarks:</b> Chapter 7, Sweeney, et al</p> <p><b>* Franchising:</b> Chapter 18, Sweeney et al</p>	<p>* Passing Off</p> <p>* Unfair trading</p>
Week 7	<p><b>Product Liability:</b> Chapter 9, Sweeney, et al</p>	<p>* Protection of Trade Marks</p> <p>* Franchising</p>
	<b>MID SEMESTER BREAK</b>	
Week 8	<p><b>* Product Packaging and Labelling:</b> Chapter 8, Sweeney, et al</p> <p><b>* Selling Techniques:</b> Chapter 11, Sweeney, et al</p> <p><b>ESSAY is due next week</b></p>	<p>No tutorials</p> <p>* Product liability</p>
Week 9	<p><b>Advertising:</b> Chapter 10, Sweeney, et al</p> <p><b>ESSAY SUBMISSION</b></p> <p><b>ESSAY SUBMISSION (Monday 7 October, upload on 'Turnitin' by 12 midnight)</b></p>	<p>* Product packaging and labelling</p> <p>*Selling techniques</p>



Week 10	<p>* <b>e-Marketing and e-Commerce:</b> Chapter 19, Sweeney et al</p> <p>* <b>Introduction to Competition Law:</b> Chapter 12, Sweeney, et al</p> <p><b>QUIZ 2 NEXT WEEK</b></p>	* Advertising
Week 11	<p><b>QUIZ 2</b></p> <p>* <b>Misuse of Market Power:</b> Chapter 14, Sweeney, et al</p> <p>* <b>Collusive Conduct:</b> Chapter 13, Sweeney, et al</p> <p><b>QUIZ 2</b> (Chapters 6-9 Sweeney et al, including lecture and tutorial content on those topics)</p>	<p><b>QUIZ (2)</b></p> <p>* e-Marketing and e-Commerce</p> <p>* Introduction to Competition Law</p>
Week 12	<p>* <b>Resale Price Maintenance:</b> Chapter 16, Sweeney, et al</p> <p>* <b>Exclusive Dealing:</b> Chapter 17, Sweeney, et al</p>	<p>* Misuse of Market Power</p> <p>* Cartel (Collusive) Conduct</p>
Week 13	<p>* <b>Review of RPM</b></p> <p>* <b>Review of Exclusive Dealing</b></p> <p>* <b>Revision</b></p>	<p>* RPM</p> <p>* Exclusive Dealing</p> <p>* Revision</p>

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) (<https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central>). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- [Academic Appeals Policy](#)
- [Academic Integrity Policy](#)
- [Academic Progression Policy](#)
- [Assessment Policy](#)
- [Fitness to Practice Procedure](#)
- [Grade Appeal Policy](#)
- [Complaint Management Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#) (**Note:** *The Special Consideration Policy is effective from 4 December 2017 and replaces the Disruption to Studies Policy.*)

Undergraduate students seeking more policy resources can visit the [Student Policy Gateway](https://students.mq.edu.au/support/study/student-policy-gateway) (<https://students.mq.edu.au/support/study/student-policy-gateway>). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

If you would like to see all the policies relevant to Learning and Teaching visit [Policy Central](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/p) (<https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/p>

[olicy-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/study/getting-started/student-conduct>

## Results

Results published on platform other than [eStudent](#), (eg. iLearn, Coursera etc.) or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit [ask.mq.edu.au](http://ask.mq.edu.au) or if you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto:globalmba.support@mq.edu.au)

## 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](http://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](http://ask.mq.edu.au)

If you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto:globalmba.support@mq.edu.au)

## IT Help

For help with University computer systems and technology, visit [http://www.mq.edu.au/about\\_us/offices\\_and\\_units/information\\_technology/help/](http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/).

When using the University's IT, you must adhere to the [Acceptable Use of IT Resources Policy](#). The policy applies to all who connect to the MQ network including students.

## Graduate Capabilities

### 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, values and principles related to marketing and management law and ethics
- Analyse, evaluate and apply the consumer protection and relevant market manipulation laws to a variety of marketing and advertising strategies
- Evaluate and apply ethical considerations and laws regulating a variety of marketing practices including pricing, distribution, e-marketing and e-commerce

#### Assessment tasks

- Quiz 1
- Individual Essay
- Quiz 2
- 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, values and principles related to marketing and management law and ethics
- Examine the legal and ethical considerations related to the protection of intellectual property development and marketing of a variety of new products and ideas

- Analyse, evaluate and apply the consumer protection and relevant market manipulation laws to a variety of marketing and advertising strategies
- Evaluate and apply ethical considerations and laws regulating a variety of marketing practices including pricing, distribution, e-marketing and e-commerce

## **Assessment tasks**

- Quiz 1
- Individual Essay
- Quiz 2
- Final Examination

## **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 outcome**

- Examine the legal and ethical considerations related to the protection of intellectual property development and marketing of a variety of new products and ideas

## **Assessment tasks**

- Individual Essay
- Final Examination

## **Changes from Previous Offering**

Recent cases and legislative changes have been incorporated into the course materials, but in light of positive student feedback, there are no significant changes to course structure.

## **Global Context and Sustainability**

### **Global Context and Sustainability:**

This unit teaches marketing law and management principles that apply to Australia but can also be applied in a global context. Sustainability issues are included in Corporate Social Responsibility materials, as well as the development and management of ethical and legal component of this unit

### **Research and Practice:**

In addition to the required textbook for this unit, students should familiarise themselves with the

relevant periodical section of the library as well as access quality newspapers and journals. We recommend the following:

- Marketing Magazines
- Daily Newspapers
- Australasian Journal of Marketing
- Legal Journals Devoted to Marketing and Management Considerations
- Harvard Law and Business Review
- Australian Business Monthly
- Journal Articles Relating to Intellectual Property (both in Australia and Overseas)
- Australian Law Reform Commission Reports
- Business Review Weekly

Students are able to access these and other important resource materials through the library home page. Under 'research' select search for journals and type the name of the journal or the area that you wish to access.

#### **Recommended Research Databases:**

Students should also familiarise themselves with key research databases available for access through the library. Databases recommended (but not limited) for your study in marketing and law include:

- Austlii (case law and legislation, some journal articles, special interest law)
- Business Source Premier
- ABS Statistics
- Anstat
- [www.agps.gov.au](http://www.agps.gov.au)
- LBC (Law Book)
- ALRC (Australian Law Reform Commission)
- Google Scholar (only when logged in via Macquarie University website)