



SCHOOL OF ACCOUNTING & COMMERCIAL LAW

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COML 401 ADVANCED COMPETITION LAW

Trimester One 2005

COURSE OUTLINE

Contact Details

Lecturer/Course Co-ordinator: Associate Professor Yvonne van Roy
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Office hours: Wednesday 1-3pm

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Office hours: 8.30am-5pm

Class Times and Room Numbers

Thursday 11.30am-1.30pm at RH MZ 06

Course Objectives

The objective of this course is to investigate in depth selected topics relating to competition law – in particular the law as it relates to New Zealand. Students passing this course should be able to:

1. Explain the social and economic objectives underlying competition law in New Zealand, and to appreciate some of the different views concerning these.
2. Understand how the regime for control under the Commerce Act operates (and to some degree also, the Australian Trade Practices Act).
3. Critically analyse and coherently discuss the relevant literature and case law with respect to competition law issues in New Zealand and Australia.
4. Comment critically but constructively on the ideas and arguments put forward by others.
5. Undertake independent study on a chosen topic, and to put together a well-constructed, well-reasoned research essay, and to defend this in class discussion.

Relationship between Assessment Tasks and the Course Objectives:

The Class Contribution and the Assessment and Presentation of Readings and Cases will assess objectives 1-4, and the Research Essay will assess objectives 2, 3 and 5.

Course Content

The course will consist of analysis and discussion of selected readings and cases involving relevant issues concerning competition law. This will be through student-led seminars for which they will have prepared a summary of pertinent points and relevant questions for the class to consider and discuss. Students will present their research essays to the class during the last three sessions of the course. Although there will be room for particular student interest, the following topics should be covered: -

- 1) The economics of Competition Law.
- 2) The Objectives of Competition Law, in particular the Commerce Act 1986.
- 3) Issues with respect to the concept of “market”.
- 4) Issues with respect to s27, arrangements and understandings, and the *Port Nelson* case.
- 5) Issues with respect to s30, and the *Giltrap* case.
- 6) Issues with respect to s29, and the *South Sydney* case.
- 7) Issues with respect to s36, predatory pricing, the *Carter Holt* case and the 5 latest cases from the High Court of Australia.
- 8) Issues with respect to s37, and the *Mikasa* case.
- 9) Oligopolies and how to catch them under the Commerce Act.
- 10) Bundled discounts, and coverage under the Commerce Act.
- 11) Issues with respect to public benefit, efficiencies and the *Superior Propane* case.
- 12) Leniency Policy – comparisons and rational.
- 13) Loyalty discounts and rebates, and coverage under the Commerce Act.
- 14) Joint ventures and the Commerce Act.

Readings

Texts:

All students must have a copy of The Commerce Act 1986 (incorporating all amendments).
COML 304 Course Materials (contains much relevant material and cases).

Recommended reading:

Brookers, *Gault on Commercial Law* – Chapter on the Commerce Act (Loose-leaf service).
Hampton, L.F., Chapter VI (“Competition Law”) of *Butterworths Commercial Law in New Zealand*, by Farrar and Borrowdale.

Taperell, G, Vermeesch R, and Harland D, *Trade Practices and Consumer Protection*.

Miller, R, *Annotated Trade Practices Act*.

Corones, S, *Competition Law and Policy in Australia*.

Heydon, *Trade Practices Law* (Loose-leaf Service).

Articles and cases will be given out in class from time to time, but students are expected to search for suitable articles and cases also. The following websites will be helpful:

www.comcom.govt.nz (Commerce Commission)

www.accc.gov.au (ACCC)

www.austlii.edu.au/au/cases/cth/federal_ct/ (Aust Federal Court Cases)

www.austlii.edu.au/au/cases/cth/HCA/ (Aust HCA cases)

www.austlii.edu.au/au/cases/cth/ACOMPT/ (Aust Competition Tribunal Cases)

Assessment Requirements

The items of assessment for this course include:

1. Critique and Presentation of Selected Article/s	15 marks
2. Summary and Presentation of Selected Case/s	15 marks
3. Research Essay (maximum 5000 words) and Presentation	60 marks
4. Contribution to Class Discussions	10 marks

To pass this course a student must:

- attend and satisfactorily contribute to 75% of sessions;
- complete and gain a satisfactory grade for items 1 – 3 above, and
- gain an overall pass mark over the four assessed items

Critique and Presentation of Selected Article/s and Summary and Presentation of Selected Case/s

Each student is required to make two presentations of assigned article/s and case/s during the course. Students making presentations of article/s are to prepare a brief summary and critique of the article/s along with relevant questions for discussion (total 2 – 3 pages) and distribute it to other members of the class and to the lecturer on or before the Monday immediately preceding the relevant class. Similarly, students making presentations of case/s are to prepare a summary of the facts, the findings and the reasoning of the court, along with relevant questions for discussion (total 2 – 3 pages) and distribute it to other members of the class and to the lecturer on or before the Monday immediately preceding the relevant class. All students are expected to contribute to all class discussions. For effective discussion on the material in class, it is important that you read and understand the assigned material beforehand.

Research Essay

Each student is required to complete a research essay. This is a major project, focusing on some area of topical interest in competition law or policy (a list of suggested topics will be given out in class, but students may choose another topic with the approval of the lecturer). The essay should be between 4000-5000 words long (maximum 5000 words). The due date for the first draft of the research essay is Monday, May 9th, and the due date for the final (completed) draft is Friday, May 27th. Students will present a draft of their research essay to the class, along with relevant questions for discussion. This should be distributed to other members of the class and to the lecturer on or before the Monday immediately preceding the relevant class.

Penalties

Please try not to exceed the word limit for your Research Essay by more than 10%. This issue will be discussed (if relevant) when the first draft is submitted, and any penalty notified if necessary.

Mandatory Course Requirements

Students must do all four items of assessment.

Communication of Additional Information

Additional information during this course will be notified during classes, or left in students' pigeonholes.

General University Policies and Statutes

Students should familiarise themselves with the University's policies and statutes, particularly those regarding assessment and course of study requirements, and formal academic grievance procedures.

Student Conduct and Staff Conduct

The Statute on Student Conduct together with the Policy on Staff Conduct ensure that members of the University community are able to work, learn, study and participate in the academic and social aspects of the University's life in an atmosphere of safety and respect. The Statute on Student Conduct contains information on what conduct is prohibited and what steps can be taken if there is a complaint. For queries about complaint procedures under the Statute on Student Conduct, contact the Facilitator and Disputes Advisor. This Statute is available in the Faculty Student Administration Office or on the website at:

www.vuw.ac.nz/policy/StudentConduct.

The policy on Staff Conduct can be found on the VUW website at:

www.vuw.ac.nz/policy/StaffConduct.

Academic Grievances

If you have any academic problems with your course you should talk to the tutor or lecturer concerned or, if you are not satisfied with the result of that meeting, see the Head of School or the Associate Dean (Students) of your Faculty. Class representatives are available to assist you with this process. If, after trying the above channels, you are still unsatisfied, formal grievance procedures can be invoked. These are set out in the Academic Grievances Policy which is published on the VUW website:

www.vuw.ac.nz/policy/AcademicGrievances.

Academic Integrity and Plagiarism

Academic integrity is about honesty – put simply it means **no cheating**. All members of the University community are responsible for upholding academic integrity, which means staff and students are expected to behave honestly, fairly and with respect for others at all times.

Plagiarism is a form of cheating which undermines academic integrity. Plagiarism is **prohibited** at Victoria.

The University defines plagiarism as follows:

Plagiarism is presenting someone else's work as if it were your own, whether you mean to or not.

'Someone else's work' means anything that is not your own idea, even if it is presented in your own style. It includes material from books, journals or any other printed source, the work of other students or staff, information from the Internet, software programmes and other electronic material, designs and ideas. It also includes the organization or structuring of any such material.

Plagiarism is not worth the risk.

Any enrolled student found guilty of plagiarism will be subject to disciplinary procedures under the Statute on Student Conduct (www.vuw.ac.nz/policy/studentconduct) and may be penalized severely. Consequences of being found guilty of plagiarism can include:

- an oral or written warning
- suspension from class or university
- cancellation of your mark for an assessment or a fail grade for the course.

Find out more about plagiarism and how to avoid it, on the University's website at: www.vuw.ac.nz/home/studying/plagiarism.html.

Students with Disabilities

The University has a policy of reasonable accommodation of the needs of students with disabilities. The policy aims to give students with disabilities an equal opportunity with all other students to demonstrate their abilities. If you have a disability, impairment or chronic medical condition (temporary, permanent or recurring) that may impact on your ability to participate, learn and/or achieve in lectures and tutorials or in meeting the course requirements, then please contact the Course Coordinator as early in the course as possible. Alternatively you may wish to approach a Student Adviser from Disability Support Services to confidentially discuss your individual needs and the options and support that are available. Disability Support Services are located on Level 1, Robert Stout Building, or phoning 463-6070, email: disability@vuw.ac.nz. The name of your School's Disability Liaison Person can be obtained from the Administrative Assistant or the School Prospectus.

Student Support

Staff at Victoria want students' learning experiences at the University to be positive. If your academic progress is causing you concern, please contact the relevant Course Co-ordinator, or Associate Dean who will either help you directly or put you in contact with someone who can.

The Student Services Group is also available to provide a variety of support and services. Find out more at www.vuw.ac.nz/st_services/ or email student-services@vuw.ac.nz.

VUWSA employs two Education Coordinators who deal with academic problems and provide support, advice and advocacy services, as well as organising class representatives and faculty delegates. The Education Office is located on the ground floor, Student Union Building, phone 463 6983 or 463 6984, email education@vuwsa.org.nz.