

School of Accounting and Commercial Law

## **COML 401 ADVANCED COMPETITION LAW**

Trimester One 2006

### **COURSE OUTLINE**

#### **Contact Details**

Course Co-ordinator: Associate Professor Yvonne van Roy (Course Co-ordinator)  
Room RH 605  
Telephone: 463-6762  
Email: [Yvonne.vanRoy@vuw.ac.nz](mailto:Yvonne.vanRoy@vuw.ac.nz)  
Office hours: Tuesday 1-3pm

Lecturer: Mr David Carter  
Room RH 727  
Telephone: 463 5233 ext 7009  
Email: [David.Carter@vuw.ac.nz](mailto:David.Carter@vuw.ac.nz)  
Office hours: Monday 3-5pm

Course Administrator: Marina Dobrovolskaya  
Room RH 708  
Telephone: 463 5775  
Email: [Marina.Dobrovolskaya@vuw.ac.nz](mailto:Marina.Dobrovolskaya@vuw.ac.nz)  
Office hours: Monday-Friday, 8.30am-5pm

#### **Class Times and Room Numbers**

Wednesday 1.40pm – 3.30pm at RLWY 125 (Railway Station West Wing)

#### **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 Final Exam, Class Contribution and the Assessment and Presentation of Readings and Cases will assess objectives 1-4, and the Research Essay will assess all 5 objectives.

### **Course Content**

The course will consist of analysis and discussion of selected readings and cases involving relevant issues concerning competition law. The first six sessions will consist of a lecture, then a student-led discussion for which 2 or 3 students will have prepared a summary of pertinent points and relevant questions on the assigned case or article for the class to consider and discuss. The following topics should be covered in these six classes:

- 1) The economic Underpinning and objectives of Competition Law, in particular The Commerce Act 1986
- 2) Anticompetitive Contracts, Arrangements or Understandings (sections 27, 29, 30)
- 3) Abuse of market power (s36)
- 4) Vertical restraints (EDCs, RPM etc).
- 5) Business acquisitions
- 6) Sector-specific Regulation

In the last six sessions of the course students will present their research essays to the class.

### **Readings**

#### Texts:

All students must have a copy of The Commerce Act 1986 (incorporating all amendments), and Volumes I and II of the COML 304 Course Materials (which 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](http://www.comcom.govt.nz) (Commerce Commission)

[www.accc.gov.au](http://www.accc.gov.au) (ACCC)

[www.austlii.edu.au/au/cases/cth/federal\\_ct/](http://www.austlii.edu.au/au/cases/cth/federal_ct/) (Aust Federal Court Cases)

[www.austlii.edu.au/au/cases/cth/HCA/](http://www.austlii.edu.au/au/cases/cth/HCA/) (Aust HCA cases)

[www.austlii.edu.au/au/cases/cth/ACOMPT/](http://www.austlii.edu.au/au/cases/cth/ACOMPT/) (Aust Competition Tribunal Cases)

### **Assessment Requirements**

The items of assessment for this course include:

- |  |          |
|--|----------|
| 1. Short written critique (500 words max) and presentation of Selected Article/s | 10 marks |
| 2. Summary and Presentation of Research Essay Topic                              | 10 marks |
| 3. Research Essay (due Tuesday 6 June, maximum 5000 words)                       | 45 marks |
| 4. Final Examination (2 hrs, open book), date TBA                                | 35 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 a presentation of an assigned article/s or case/s during the course. Students making such presentations are to prepare a brief summary and critique of the article/s along with relevant questions for discussion (max 500 words) and distribute it to other members of the class and to the lecturer on or before the Monday immediately preceding the relevant class. If the presentation is of a case/s, students should prepare a summary of the facts, the findings and the reasoning of the court, along with relevant questions for discussion (max 500 words). 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). Students should choose their essay topic on or before Wednesday, March 8<sup>th</sup>. The due date for the first draft of the research essay is Wednesday, May 5<sup>th</sup>, and the due date for the final (completed) draft is Tuesday, June 6<sup>th</sup>. 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 (area next to RH 623).

### **Faculty of Commerce and Administration Offices**

#### Railway West Wing (RWW) - FCA Student Administration Office

The Student Administration Office is located on the ground and first floors of the Railway West Wing. The ground floor counter is the first point of contact for general enquiries and FCA forms. Student Administration Advisers are available to discuss course status and give further advice about FCA qualifications. To check for opening hours call the office on (04) 463 5376.

#### Easterfield (EA) - FCA/Law Kelburn Office

The Kelburn Campus Office for the Faculties of Commerce & Administration and Law is situated in the Easterfield Building - it includes the ground floor reception desk (EA005) and offices 125a to 131 (Level 1). The office is available for the following:

- Duty tutors for student contact and advice.
- Information concerning administrative and academic matters.
- FCA Student Administration forms (e.g. application for academic transcripts, requests for degree audit, COP requests).
- Examinations-related information during the examination period.

Check with the Student Administration Office for opening times (04) 463 5376.

### **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](http://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](http://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](http://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](http://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](http://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](mailto: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/](http://www.vuw.ac.nz/st_services/) or email [student-services@vuw.ac.nz](mailto: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](mailto:education@vuwsa.org.nz).

**Manaaki Pihipihinga Maori and Pacific Mentoring programme (Faculties of Humanities and Social sciences and Commerce and Administration).**

- **What:** Academic Mentoring for Maori and Pacific students studying at all levels in the above faculties. Weekly sessions for an hour with a mentor to go over assignments and any questions from tutorials or lectures. Registered students can use the faculty's study rooms and computer suite at any time at Kelburn and Pipitea.
- Mature student and Post grad network

If you would like to register as a mentor or mentee please contact the coordinator.

**Where:**

Melissa Dunlop

Programme Coordinator

Room 109 D

14 Kelburn Parade: back courtyard

Ph: (04) 463 6015

Email: [Maori-Pacific-Mentoring@vuw.ac.nz](mailto:Maori-Pacific-Mentoring@vuw.ac.nz)

Please Note: A mentoring room will also be running at Pipitea Campus starting January.  
Please contact the Programme Coordinator for details.