

School of Accounting and Commercial Law

COML 401 ADVANCED COMPETITION LAW

Trimester One 2007

COURSE OUTLINE

Contact Details

Course Co-ordinator: Associate Professor Yvonne van Roy (Course Co-ordinator)
Room RH 605
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Office hours: Wednesday 2-4pm

Lecturer: Mr David Carter
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Course Administrator: Jan May
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Office hours: Monday-Friday, 8.30am-5pm

Class Times and Room Numbers

Wednesday 10.30am – 1.20pm at RH G04 (Rutherford House).

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 four sessions will consist of a lecture, the next four, a lecture plus 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 the lectures:

- 1) The economic Underpinning and objectives of Competition Law, in particular The Commerce Act 1986
- 2) The scope of the Commerce Act, including exemptions/exceptions
- 3) Anticompetitive Contracts, Arrangements or Understandings (section 27)
- 4) Price fixing arrangements (sections 30, 31-33)
- 5) Arrangements containing exclusionary provisions (section 29)
- 6) Abuse of market power (section 36)
- 7) Vertical restraints (EDCs, RPM etc).
- 8) Business acquisitions
- 9) Sector-specific regulation
- 10) Penalties, authorisations, clearances, and other powers

In the last four 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 (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:

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| 1. Short written critique (500 words max) and presentation of selected article or case | 10 marks |
| 2. Summary and Presentation of Research Essay topic | 10 marks |
| 3. Research Essay (due Friday, June 1 st , 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 or case during the course. Students making such presentations are to prepare a brief summary and critique of the article **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, 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 14th. The due date for the first draft of the research essay is Wednesday, May 2nd, and the due date for the final (completed) draft is Friday, June 1st. 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 (RH 629).

Faculty of Commerce and Administration Offices

Railway West Wing (RWW) - FCA Student and Academic Services Office

The Faculty's Student and Academic Services 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 Student and Academic Services Office on (04) 463 5376.

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

The Kelburn Campus Office for the Faculties of Commerce and Administration, Education 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.
- Forms for FCA Student and Academic Services (e.g. application for academic transcripts, requests for degree audit, COP requests).
- Examinations-related information during the examination period.

To check for opening hours call the Student and Academic Services Office on (04) 463 5376.

General University Policies and Statutes

Students should familiarise themselves with the University's policies and statutes, particularly the Assessment Statute, the Personal Courses of Study Statute, the Statute on Student Conduct and any statutes relating to the particular qualifications being studied; see the Victoria University Calendar or go to www.vuw.ac.nz/policy.

For information on the following topics, go to the Faculty's website www.vuw.ac.nz/fca under Important Information for Students:

- Academic Grievances
- Academic Integrity and Plagiarism
- Student and Staff Conduct
- Meeting the Needs of Students with Impairments
- Student Support

Manaaki Pihipihinga Programme

Manaaki Pihipihinga is an academic mentoring programme for undergraduate Māori and Pacific students in the Faculties of Commerce and Administration, and Humanities and Social Sciences. Sessions are held at the Kelburn and Pipitea Campuses in the Mentoring Rooms, 14 Kelburn Parade (back courtyard), Room 109D, and Room 210, Level 2, Railway West Wing. There is also a Pacific Support Coordinator who assists Pacific students by linking them to the services and support they need while studying at Victoria. Another feature of the programme is a support network for Postgraduate students with links to Postgraduate workshops and activities around Campus.

For further information, or to register with the programme, email manaaki-pihipihinga-programme@vuw.ac.nz or phone (04) 463 5233 ext. 8977. To contact the Pacific Support Coordinator, email pacific-support-coord@vuw.ac.nz or phone (04) 463 5842.