

School of Accounting and Commercial Law

COML 205 CONSUMER LAW

Trimester Two 2011

COURSE OUTLINE

Names and Contact Details

Course Coordinator &

Lecturer: Assoc. Prof Yvonne van Roy RH 605 463 6762
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Lecturer: Mr Palitha de Silva RH 611 463 6960
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Administrator: Ms Lucy May RH 708 463 5775
Lucy.May@vuw.ac.nz
Office hours: Monday-Friday 8.30am-5pm
Office is closed: 10.30-10.45am and 3.30-3.45pm

Trimester Dates

Teaching Period: Monday 11 July – Friday 14 October 2011

Study Period: Monday 17 October – Thursday 20 October 2011

Examination Period: Friday 21 October – Saturday 12 November 2011 (inclusive)

Withdrawal from Course

1. Your fees will be refunded if you withdraw from this course on or before 22 July 2011.
2. The standard last date for withdrawal from this course is **Friday 23 September**. After this date, students forced to withdraw by circumstances beyond their control must apply for permission on an *'Application for Associate Dean's Permission to Withdraw Late'* including supporting documentation.

The application form is available from either of the Faculty's Student Customer Service Desks.

Course Prerequisites

COML 203 Legal Environment of Business

Class Times and Room Numbers

Mondays and Fridays: 1.40 - 2.30 pm in RHLT2

Course Content

Below is an outline of the content covered by this course and the order in which they will be presented.

Attendance at Lectures

A significant part of this course is lecture based. Therefore, you are strongly recommended to attend *all* lectures and tutorial group sessions. Much information, which is examinable, is conveyed by the *spoken word only* and is not posted on Blackboard or otherwise distributed!

Dates		Topic Areas	Tutorials
Mon 11 July Fri 15 July	YvR	Why do we need laws to protect consumers? Proposed amendments to New Zealand Consumer Laws	No tutorial
Mon 18 July Fri 25 July	YvR	Uninvited direct sale agreements; consumer information standards	No tutorial
Mon 25 July Fri 29 July	YvR	Defective Products: Pts 3-4 Fair Trading Act: Product Safety & Safety of Services	Tutorial 1 (YvR)
Mon 1 Aug Fri 5 Aug	YvR	Defective Products: Consumer Guarantees Act	Tutorial 2 (YvR)
Mon 8 Aug Fri 12 Aug	YvR	Unfair Practices & Conduct: The Fair Trading Act	Tutorial 3 (YvR)
Mon 15 Aug Fri 19 Aug	YvR YvR	Unfair Practices & Conduct: The Fair Trading Act Test (50 minutes duration, venues to be advised)	No tutorial
Mid-Trimester Break, 22 Aug – 4 Sept			
Mon 5 Sept Fri 9 Sept	YvR PdS	Unfair Practices & Conduct: The Fair Trading Act Consumer Issues in Unfair Contracts: Unconscionable Bargains, Duress & Undue Influence	No tutorial
Mon 12 Sept Fri 16 Sept	PdS	Consumer Issues in Credit: The Credit Contracts and Consumer Finance Act 2003 and Regulations; The Credit (Repossession) Act 1997	Tutorial 4 (YvR)
Mon 19 Sept Fri 23 Sept	PdS	Consumer Issues in Investment: The Financial Advisors Act 2008 and Regulations Financial Service Providers (Registration and Dispute Resolution) Act 2008	Tutorial 5 (PdS)
Mon 26 Sept Fri 30 Sept	PdS	Consumer Issues in Banking: Consumer rights in Negotiable Instruments Issues in Electronic Banking: Debit & Credit Cards; EFTs & Internet Banking The Banking Ombudsmen	Tutorial 6 (PdS)
Legal Essay due 5.00pm Friday 30 September			
Mon 3 Oct Fri 5 Oct	PdS	Consumer Issues in Insurance: The Nature of the Insurance Contract Insurance Law Reform Acts The Insurance Ombudsman	Tutorial 7 (PdS)
Mon 10 Oct Fri 14 Oct	PdS	Consumer Issues in Privacy: Is there a Right to Privacy? The Privacy Act 1993 The Privacy Commissioner	Tutorial 8 (PdS)

This is a general lecture outline only. Some topics may be addressed in a different week from that shown here.

Your tutorial group sessions

There are eight (8) tutorial sessions for each tutorial group of students, held during the following eight weeks:

- Week 3, Tutorial 1
- Week 4, Tutorial 2
- Week 5, Tutorial 3
- Week 8, Tutorial 4
- Week 9, Tutorial 5
- Week 10, Tutorial 6
- Week 11, Tutorial 7
- Week 12, Tutorial 8

You will be given the opportunity to electronically sign up to be a member of one tutorial group on a first-come-first-served basis. Sign up for the tutorials should be done during the first week of the trimester. The instructions for signing up are attached (see page 8 of this Course Outline). The completed tutorial group lists with their group identification number will be posted on the web-based Blackboard as soon as practically possible after the closing date of the tutorial group sessions' signup. Subsequent changes to those tutorial group lists can only be made by the Course Administrator.

Tutorials are compulsory and an attendance roll will be recorded. Tutorials are generally designed to clarify and reinforce material covered in lectures. In addition, tutorials will also focus on reviewing, introducing and practicing skills such as legal problem solving and legal writing which will assist in assessments. Students are expected to participate in tutorials fully.

Course Learning Objectives

By the end of this course, students should be able to:

1. explain the laws that businesses have to comply with in their interactions with consumers;
2. apply selected aspects of consumer law to fact situations;
3. critically evaluate the policy underlying consumer law;
4. compare selected aspects of New Zealand consumer law with overseas jurisdictions.

Course Delivery

The course will be delivered by lectures and tutorials. Before lectures you should read any assigned material and for tutorials, students need to read and consider the tutorial questions before each tutorial. Some tutorials will be problem solving. It is recommended that students attempt to answer such questions before the tutorial by identifying the key issues, analysing the applicable law and applying to the facts. Other tutorials may require reading of relevant pages of the course material book or additional material before the tutorial.

Expected Workload

This is a 15 point course. As such it equates to 150 hours of work spread over its duration of: (i) 12 lecture weeks, (ii) 2 mid-trimester study breaks, and (iii) 1 study week prior to the final examination period. That is on average a total of **10 hours of work per week** (150 hours of work ÷ 15 weeks).

Group Work

Group work is limited to your participation in your Tutorial Group Sessions.

Readings

Required:

COML 205 Course Materials (2011) Volumes 1 and 2 purchased through student notes.
CCH New Zealand Contract and Commercial Legislation (latest edition), or Brookers
Commercial Law Handbook (latest edition).

Recommended and Additional Textbooks that you may wish to consult:

COML 205 Blackboard will set out a list of any recommended and additional textbooks.

Materials and Equipment

Materials permitted in mid-trimester test and final examination

The Mid Trimester Test and Final Exam are both open book and you may bring whatever materials you like into the exam room. Be aware that lecturers do not have spare copies of course materials book available for loan and it is your responsibility to make sure you have a copy of anything you may wish to refer to during the test and final exam.

Assessment Requirements

These assessment requirements cover the following three items below, namely:

- 1. Mid Trimester Test: Friday 19 August (20%)**
- 2. Legal Essay: due Friday 30 September (30%), and**
- 3. Final Examination (50%) (open book)**

Mid Trimester Test (compulsory)

- The Test (20% of the overall grade) is scheduled to take place on Friday 19 August
- Its duration will be 50 minutes.
- The test will cover material covered in lectures up to and including Monday 15 August.
- The test is open book.

Legal Essay (compulsory)

The Legal Essay is due 2pm Friday 30 September. Essays should not exceed 1500 words (not including footnotes which should be limited to referencing and citations). You will need to do research beyond the recommended reading and course materials. You should pay particular attention to the requirements for the adequate references and citations in order to avoid the appearance of plagiarism.

Essay Topic

Your friends Sam and Jane have decided to set up a new business enterprise selling land and apartments on the moon. They have been considering information about similar enterprises (attached to this course outline) and believe that they could set up a similar business with similar products. However you know that any enterprise they set up will be subject to the Fair Trading Act 1986.

Required

Advise Sam and Jane about how to ensure compliance with the Fair Trading Act 1986 (and the proposed amendments to the Act), when describing their business and its products (especially in advertisements and the company's website).

Basic Requirements for your Essay

1. There should be an introduction and a conclusion, clearly headed as such.
2. Do not grossly exceed the word limit (10% tolerance is acceptable) – *after this point the work will not be marked.*

3. The due date will be strictly adhered to. However, if you consider you have a good reason for not meeting this deadline, please see the course co-ordinator as soon as you know you will have this problem. Otherwise, the penalty will be 5% per day (after the due date).
4. All ideas or quotations from another work must be referenced. You could either use footnotes (for guidance, look at the way this is done in the text or in any of the articles or chapters in the course materials), or use the APA system. Remember to include the page reference, not just the title of the work being referenced.
5. There should be a bibliography, listing the sources of information you have used for your essay; (note that a bibliography is not a substitute for referencing).
6. Provide a separate cover sheet that shows:
The Title
Your Name
The Course Code
The word count
7. Leave a 2 inch (5 cm) margin and adequate spacing, to enable room for comments.
8. Write clearly or type your work.
9. Do not plagiarise (see p.106 of the University Calendar for further information). Plagiarism is defined as “the presentation of the work of another person or other persons as if it were one’s own work, whether intended or not. This includes published and unpublished work, material on the Internet and the work of other students and staff”. If you want to include a passage from another person’s work, use quotation marks at the beginning and end of the passage, then include the appropriate reference. If you want to include the ideas of another person, but not their exact words, you must include a reference to that person’s work (but no quotation marks are necessary).

Final Examination (50% of overall grade, total duration is 120 minutes)

The final examination for this course will be scheduled at some time during the period Friday 21 October to Saturday 12 November 2011 (inclusive) (actual date to be advised).

Quality Assurance Note

Your assessed work may also be used for quality assurance purposes, such as to assess the level of achievement of learning objectives as required for accreditation and audit purposes. The findings may be used to inform changes aimed at improving the quality of FCA programmes. All material used for such processes will be treated as confidential, and the outcome will not affect your grade for the course.

Examinations

Students who enrol in courses with examinations are obliged to attend an examination at the University at any time during the formal examination period.

The final examination for this course will be scheduled at some time during the period

Friday 21 October – Saturday 12 November 2011 (inclusive)

Penalties

See “Basic Requirements for your Essay” (above).

Mandatory Course Requirements

All items of assessment must be completed, and at least six out of the eight tutorials must be attended.

Course pass requirements

In order to pass this course, a student must (a) meet the *mandatory course requirements*, and (b) achieve a weighted average mark of 50% or more, utilising the indicated weightings, over: (i) Mid Trimester Test (weighting 20%) plus (ii) Legal Essay (weighting 30%), plus (iii) Final Examination (weighting 50%).

Class Representative

A class representative will be elected in the first class, and that person’s name and contact details will be available to VUWSA, the Course Coordinator and the class. The class representative provides a communication channel to liaise with the Course Coordinator on behalf of students.

Communication of Additional Information

Additional information concerning this course will be provided in lectures and posted on the web-based **Blackboard** system at <http://blackboard.vuw.ac.nz>.

Use of Turnitin

Student work provided for assessment in this course may be checked for academic integrity by the electronic search engine <http://www.turnitin.com>. Turnitin is an on-line plagiarism prevention tool which compares submitted work with a very large database of existing material. At the discretion of the Head of School, handwritten work may be copy-typed by the School and subject to checking by Turnitin. Turnitin will retain a copy of submitted materials on behalf of the University for detection of future plagiarism, but access to the full text of submissions will not be made available to any other party.

For the following important information follow the links provided:

Academic Integrity and Plagiarism

<http://www.victoria.ac.nz/home/study/plagiarism.aspx>

General University Policies and Statutes

Find key dates, explanations of grades and other useful information at

www.victoria.ac.nz/home/study

Find out about academic progress and restricted enrolment at

<http://www.victoria.ac.nz/home/study/academic-progress.aspx>

The University's statutes and policies are available at www.victoria.ac.nz/home/about/policy, except qualification statutes, which are available via the Calendar webpage at

<http://www.victoria.ac.nz/home/study/calendar.aspx> (See Section C).

Further information about the University's academic processes can be found on the website of the Assistant Vice-Chancellor (Academic) at

www.victoria.ac.nz/home/about_victoria/avcacademic/default.aspx

AVC (Academic) Website: information including: Conduct, Academic Grievances, Students with Impairments, Student Support

http://www.victoria.ac.nz/home/about_victoria/avcacademic/Publications.aspx

Faculty of Commerce and Administration Offices

<http://www.victoria.ac.nz/fca/studenthelp/>

Te Pūtahi Atawhai

Maori and Pacific Mentoring Programme

http://www.victoria.ac.nz/st_services/tpa/index.aspx

Detailed Tutorial Signup Instructions

1. Go to the signup website at: <https://signups.victoria.ac.nz>
2. Enter your SCS username and password to login the system.
3. The “Signup Home” page opens. It displays all courses you are enrolled for and that use the S-Cubed Tutorial & Workshop Signup system. Click on the course you wish to sign up for.
4. The selected course page opens. It will show the course contact and brief details of the signup instructions. A “key” is provided at the bottom that explains all buttons and what they do.
5. The schedule of tutorials includes the day/time, location, maximum group size, and spaces left in the tutorial sessions.
6. If there are spaces left in a particular session, you will see the “ENROL” button next to it. You can click this button to enrol yourself into that tutorial session.
7. If there are NO more spaces left in a particular session, you will see the “JOIN WAITLIST” button, if available. You can click this button to join the waitlist for that tutorial session. Please note that you will be removed from any other waitlist you may have joined earlier. If somebody withdraws from this session, you will automatically be moved up the waitlist or enrolled into the session. In this case you are enrolled in the session; an email will be sent to you if you are enrolled into the session from a waitlist.
8. You can only “JOIN WAITLIST” if you have already enrolled in one of the other available sessions. In other words, “ENROL” in one session and then you can choose to join the waitlist for another preferred session.
9. You can choose to “WITHDRAW” from a session you have already enrolled for. You can also choose to “CANCEL WAITLIST” to remove yourself from a particular waitlist.
10. A “FULL” button indicates all seats and waitlist are full for that tutorial session. You must choose another session.
11. More details on the various buttons are available in the “Key” section at the bottom of the signup page.
12. You should “ENROL” in only ONE tutorial session and may “JOIN WAITLIST” for only ONE other tutorial session.
13. You can login and signup (or change your signup) anytime before the **closing date of the tutorial signup. You will NOT be able to sign up or change your choice after the tutorial signups have closed.**
14. You can view/confirm details of the sessions you are enrolled and waitlisted for, such as day/time and location by clicking on “My Signups” on the left hand menu.
15. Click on “Support” on the left hand menu if you are having problems.

This online signup system is available around the clock over the internet. Any requests after this date will need to be manually handled by the course administrator. You will need to submit a written application stating the reason why you were not able to sign up on time using the online system, along with other relevant documentation such as medical certificate etc.

Finally, **you must always attend the tutorial sessions that you have signed up for.** If you attend a different session, your attendance may not be recorded.

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Property on the Moon is:

- an excellent gift
- potential prudent investment
- an interesting and great conversation piece

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OUT OF THIS WORLD

Escape global warming – live on Mars. Artist Bronwyn Holloway-Smith is “selling” real estate in the new Utopia, or at least the idea, she tells **Diana Dekker**.

The Colonial Real Estate ad says, fancifully, as they do: “Unique lifestyle opportunity ... stunning ... executive neighbourhood ... a sanctuary ... a must for buyers seeking space and adventure ... this 20-hectare property will hold appeal.”

Hooked already? Do you like the big windows in the sketch, the modern furniture, the edgy views, the promise? Even though this gorgeous place on Mars is so exotically far away?

Artist Bronwyn Holloway-Smith hopes that even if the prospect of being one of the first people to live in a trendy pad on Mars doesn't appeal, the idea might be thought-provoking.

Plenty of people in Wellington buy apartments off the plans, she points out. They see smart architectural drawings with happy people wandering in and out of places that don't exist, and they put their deposit down, envisaging a lifestyle that may or may not eventuate. Plenty of people also set out for New Zealand from the other side of the world in colonial times, a journey as demanding as any trip to Mars, on the strength of idealised pictures and exaggerated claims.

Holloway-Smith's push to “sell” life in Pioneer City on the Utopia Plains of Mars is part of the Letting Space art series curated by Mark Amery and Sophie Jerram. Last year, Letting Space, which has Creative New Zealand funding and uses vacant sites in Wellington, mounted

the satisfyingly controversial Beneficiary's Office containing unemployed artist Tao Wells, who said he wanted to be the next Paul Henry.

As she was researching the red planet, Holloway-Smith was also buying a house in Wellington and she noted the number of homes sold off the plans. “There were interesting connections. If people would actually look at going to Mars, how could they be sold the idea? It was a mixture of scientific facts, our colonial history and current real estate practice. I had the idea several years ago, but it doesn't lend itself to gallery space. Letting Space started up and it was the perfect partnership.”

Massey graduate Holloway-Smith's project is multi-media, with a website – Pioneer-City.com – a Ghuznee St billboard, a Colonial Real Estate showroom in Taranaki St, an architect-designed model of the proposed settlement, and a suitably smooth Pioneer City real estate agent – “friendly, reliable, honest” – called Helen McCarroll.

Every real estate agent has a smart, empathetic Helen McCarroll, or several, each with the sort of nicely designed business card that Ms McCarroll hands out.

Ms McCarroll's job is cut out for her, given there is unlikely to be a manned landing on Mars for at least a couple of decades, let alone suburbs sprouting.

There is, of course, no money involved in Holloway-Smith's artwork. “I'm selling the idea. I'm not selling

Earth could be a horrible place in the future. I hope this will make people think about the state of our cities.

BRONWYN
HOLLOWAY-SMITH



Mars.” The Outer Space Treaty allows use, but not ownership, she adds.

Feedback is the payoff she hopes for. People were buying into the theatre of the idea before the real estate showroom even opened on June 18. One fantasised about the idea of exporting New Zealand agricultural expertise to the new colony.

The idea of life on Mars is not completely far-fetched, she says. There is ice there, it could be greened, it has the basic chemistry to support human life.

“There is the possibility for humans to colonise Mars, even though there's no atmosphere and it's really cold. It would be rough, but Earth is facing some problems – over-population, global warming, the threat of nuclear war. Earth could be a horrible place in the future. I hope this will make people think about the state of our cities.”

In reality, the landscape beyond the picture windows of the desirable places she's advertising for sale on Mars is White Island, off the Whakatane Coast – “we just edited it.”

She'd contemplate going to Mars “depending on what the prospects of Earth are like. Being a pioneer on Earth is not such an option any more. To be an early explorer on Mars – wouldn't that be incredible?”

The Colonial Real Estate Pioneer City showroom, on the ground floor of Soho Apartments at 80 Taranaki St, is open at weekends, or by appointment, until July 10.