

School of Accounting and Commercial Law

## COML 111 LAW FOR BUSINESS

Trimester 3, 2011

### COURSE OUTLINE

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#### Names and Contact Details

##### *Course Coordinators*

Associate Professor Yvonne van Roy  
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##### *Course Administrator*

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#### Trimester Dates

##### Teaching Period:

From Monday 14 November to Thursday 15 December

##### Examination Period:

None

#### Withdrawal from Course

1. Your fees will be refunded if you withdraw from this course on or before 18 November 2011.
2. The last date for withdrawal from this course is the three-quarter point of the teaching period, i.e. Friday 9 December.

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.

## Class Times and Room Numbers

Monday	12.00-13.50	KKLT301
Wednesday	12.00- 12.50	KKLT301
Thursday	12.00-13.50	KKLT301

Tutorials will be held in the weeks commencing  
21 November  
28 November  
5 December  
12 December

There will be three tutorial groups as follows:

Monday 9:00 am	MY107
Monday 10.00	MY107
Tuesday 10.00	MY 401

You will be given an opportunity to sign up for the tutorials on a first-come-first served basis. The instructions for signing up are attached as the last page of this Course Outline and will also be posted on Blackboard. The tutorial lists will be posted on Blackboard.

## Course Content

A general introduction to the legal issues encountered in business with particular emphasis on business enterprises. A wide variety of legal issues will be covered in this context, including the formation and management of and winding up of business enterprises, responsibilities and duties of directors, employment and contract law, tort law, consumer law, and the law relating to intellectual property.

### Basic Case Study Scenario

Three friends, Peter, Norman and Mary Jane have decided to set up in business together, capitalizing on the scientific knowledge of two of the friends and the business acumen and financial resources of Norman. Mary Jane and Peter studied biochemistry together at Victoria University in Wellington. Mary Jane went to Munich University to complete a PhD, and worked there for two years as a post-doctoral fellow, involved with research into the use of spider silk, and the development of an artificially-produced commercial product. She has recently married a New Zealander and returned to New Zealand. Peter completed his PhD at Victoria University and went on to work for one of New Zealand's Crown Research Institutes. The third member of the group, Norman, has been working for several years as a financial markets dealer. He has been very successful, and is now looking for a less stressful occupation in which he can invest his substantial funds, and use his entrepreneurial talents. Peter and Norman grew up in the same street, and have been friends for many years. Both are members of the local sky-diving club, and have recognised the business opportunities existing for a material which is as light and strong as spider silk. (Spider silk is light weight, flexible, water proof, repairs itself when water is added, and is one of the toughest materials in the world).

## Course Learning Objectives

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

- 1 describe how the general legal environment impacts on business in New Zealand;
- 2 analyse the legal constraints on business;
- 3 describe the basic legal structures that constitute businesses and the law that regulates businesses and the business environment;
- 4 identify legal issues and provide potential solutions to legal problems within the business environment.

## Course Delivery

The Course will be delivered via 3 weekly lectures for 4 weeks and 2 lectures plus a final test in the 5<sup>th</sup> week. There are also 4 tutorials (starting in Week Two). Each week has a 2 hour lecture on Monday, a 1 hour lecture on Wednesday, and a 2 hour lecture on Thursday.

## Expected Workload

You should expect to spend on average 20 hours per week on the course (excluding study for the tests). How this time is made up will vary from week to week, but would typically comprise:

- 5 hours in scheduled lectures;
- 5 hours preparing for and participating in tutorials and completing the legal exercise;
- 10 hours reading for lectures, and revising lecture and tutorial notes.

Unless you keep up with the course work, you are likely to face considerable problems catching up in order to be adequately prepared for the in class Mid Trimester Test and the final test.

In order to benefit from lectures you should read the relevant sections of the Course Materials Book (CMB) and the textbook relating to each lecture topic **before** the lectures.

## Readings

- Longdin et al., Law in Business & Government in New Zealand (Palatine Press, Auckland)
- P Gerbic & M. Lawrence: Understanding Commercial Law (Butterworths, Wgtn)
- J. Hubbard, C Thomas, S.Varnham: Principles of Law for New Zealand Business (Pearson Education NZ Ltd, Auckland)
- M.McDowell & D.Webb: The New Zealand Legal System (Butterworths, Wgtn)
- R.D. Mullholland: Introduction to the New Zealand Legal System (Butterworths, Wgtn)

**Note: Students are NOT required to purchase any of these books.**

## Materials and Equipment

The text for the course consists of a book of course materials available from Vicbooks. It is highly recommended that, prior to lectures you read the appropriate section from course materials book (as indicated in the course materials or by the lecturers). There is no charge for class handouts. Copies of all class handouts will also be available on Blackboard.

## Assessment Requirements

The three items of assessment for this course are:

<i>Item of Assessment</i>	<i>Percentage of Final Grade</i>	<i>Date</i>
Mid Trimester Test (50 mins)	25%	Wednesday 23 November
Legal Exercise (1000 words max)	25%	Due Thursday 8 December 2.00 pm
Final test (2 hours)	50%	Thursday 15 December 12 noon to 2.00 pm

### Mid Trimester Test

The **50 minute Mid Trimester Test** will be held in class on Wednesday 23 November.

### Legal Exercise

The Legal Exercise is 1000 words (max), due 2.00 pm Thursday 8 December (see further information attached)

### Final Test

The final test for this course will be held on Thursday 15 December 12 noon to 2.00 pm

### 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.

### Penalties

The Legal Exercise word limit is 1000 words (10% excess is acceptable) - after this point the work will not be marked. The due date of **Thursday 8 December** will be strictly adhered to and late exercises will have a flat 5% penalty deducted per day late. (However, if you consider you have a good reason for not meeting this deadline, please see either course coordinator as soon as you know you will have this problem and before the due date.)

### Mandatory Course Requirements

To meet the mandatory course requirements you must:

1. Attend **three** out of **four** tutorials; and
2. All items of assessment must be submitted.
3. Obtain at least 40% in the final exam;

Failure to meet mandatory course requirements will mean the student will not pass the course and will receive either a K, D or E grade, depending on whether you achieve 50% or not in the course overall.

### Class Representative

A class representative will be elected in the first class, and that person's name and contact details made 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**

Any additional information provided during lectures or information on changes to any aspects of the course will be conveyed to students through Blackboard announcements.

**For the following important information follow the links provided:**

### **Academic Integrity and Plagiarism**

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

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.

### **General University Policies and Statutes**

Find key dates, explanations of grades and other useful information at [www.victoria.ac.nz/home/study](http://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](http://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](http://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](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 Putahi Atawhai**

#### **Maori and Pacific Mentoring Programme**

[http://www.victoria.ac.nz/st\\_services/tpa/index.aspx](http://www.victoria.ac.nz/st_services/tpa/index.aspx)

### COML111 2011 LECTURE PROGRAMME

Week	Lecture	Lecturer	Topic	Tutorial
1	Nov 14 (2 hrs)	TK	Course Admin & Intro – setting the scene – video Getting the business started: Sole trader, Partnership, Registered Company.	
1	Nov 16 (1 hr)	TK	Company Law issues: Separate legal identity, limited liability and rights/powers of shareholders.	
1	Nov 17 (2 hrs)	TK	Company Law issues: Directors duties, options for raising funds: debt and equity	
2	Nov 21 (2 hrs)	TK	Protecting the Company's Intellectual Property – Copyright, Patents, Confidential Information, Trademarks.	1 (TK)
2	Nov 23		<b>Mid Trimester Test in class time</b>	
2	Nov 24 (2 hrs)	TK	Employment Law – employee/independent contractor, terms and conditions, termination of employment.	
3	Nov 28 (2 hrs)	YvR	Competition Law – The Commerce Act – Cartels and Abuse of Market Power	2 (TK)
3	Nov 30 (1hr)	YvR	Contracts - elements, offer, acceptance, consideration(etc.)	
3	Dec 1 (2 hrs)	YvR	Contracts	
4	Dec 5 (2 hrs)	YvR	Tort Law: Negligence and other torts, liability in tort.	3 (YvR)
4	Dec 7 (1hr)	YvR	Criminal Law : Introduction (using crime of theft)	
4	Dec 8 (2 hrs)	TK	Termination of trading: winding up, receivership, liquidation.  Legal Exercise Due – 2.00 pm	
5	Dec 12 (2 hrs)	YvR	Consumer Law: The Fair Trading Act and Consumer Guarantees Act	4 (YvR)
5	Dec 14 (1hr)	YvR	Consumer Law : Consumer Guarantees	
5	Dec 15 (2 hrs)		<b>FINAL TEST (2 hours)</b>	

## **LEGAL EXERCISE**

### ***WORTH 25% OF THE FINAL GRADE***

#### **BACKGROUND INFORMATION**

In December 2006 Sticky Web Ltd developed a new product – a surgical dressing for use in the treatment of burns. The directors decided to tender for the supply of these dressings to various hospital boards in New Zealand and Australia. However, before making any tender, Norman was approached by a director of one of the competing companies (which supplied similar surgical dressings). This competitor informed him that the five suppliers of these surgical dressings in Australia and New Zealand have an agreement whereby they decide in advance which of them will put in the lowest tender with each hospital board, and the amount of that tender. They would share out the various hospital board contracts according to an agreed formula. This would mean that each of the five companies would receive a higher price for their products that would otherwise be the case. Norman convinced the other Sticky Web directors, who readily agreed to this proposal, and authorised Norman to negotiate a suitable arrangement with the other five suppliers. The arrangement was that a “roster” would be drawn up whereby each of the six suppliers would take it in turns to prepare a winning bid for a particular tender, which the other bidders would make sure was awarded to the supplier whose turn it was to win a tender. This arrangement was adopted in respect of the 12 tenders that have been awarded since January 2007. Sticky Web has successfully been awarded two extremely profitable contracts according to this agreement. The Sticky Web’s directors took care to pass a resolution whereby Sticky Web Ltd would indemnify any of them should they be found personally liable for pecuniary penalties under the Commerce Act 1986.

Unfortunately, one of the competitors has contacted the Commerce Commission, informing the Commission of the agreement between the six companies in return for immunity from legal action under the Commerce Act (under the Commission’s Leniency Programme). The Commerce Commission has taken action against Sticky Web Ltd and also against Norman personally, for price fixing under the Commerce Act 1986. The Commission is seeking pecuniary penalties for breaching the Act and for the indemnification resolution. The hospital boards have also taken an action for damages against Sticky Web Ltd under the Commerce Act 1986.

#### **Required: Answer BOTH questions**

1. Discuss whether the Commerce Commission will be successful in its actions against Sticky Web Ltd and Norman under the price fixing provisions of the Commerce Act 1986.  
(15 Marks)
  
2. With respect to the actions taken by the Commerce Commission and by the hospital boards under the Commerce Act 1986, discuss the liability of Sticky Web Ltd and Norman for remedies and penalties.  
(10 Marks)

(Please see pp 234-269 of the Course Materials Book; also helpful is S. Watson et al *The Law of Business Organisations* 5<sup>th</sup> edition Palatine Press 2009, Chapter 25 (Competition Law), and M Sumpter, *New Zealand Competition Law and Policy*, CCH NZ Ltd, 2010.

## **Basic Requirements for your Legal Exercise**

*(Note: marks will be deducted for failure to comply with these requirements.)*

The Legal Exercise is 1000 words (max), due 2.00pm Thursday 8<sup>th</sup> December (see further information below). Please note that the Legal Exercise is **compulsory**.

1. Do not grossly exceed the 1000 word limit (10% excess is acceptable) - after this point the work will not be marked.
2. The due date of **Thursday 8 December** will be strictly adhered to and late exercises will have a flat 5% penalty deducted per day late. (However, if you consider you have a good reason for not meeting this deadline, please see either course coordinator as soon as you know you will have this problem and before the due date.) Exercises can of course be handed in early. All exercises must be placed in the box marked COML111 Legal Exercise located on the Level Two of the Murphy Building.
3. All ideas and quotations from another work must be referenced. You could either use footnotes (for guidance, look at the way this is done in any of the articles or chapters in the course materials book), or use the APA system. Remember to include the page reference, not just the title of the work being referenced. Please note that you should **not** cite lecture notes or your course materials. Cite the specific article or chapter instead. If quoting websites, use only websites with authoritative value, and cite that authority along with the website details (eg. [www.nzx.com](http://www.nzx.com) for the New Zealand Stock Exchange).
4. There should be a bibliography, listing the sources of information you have used for your exercise (note that a bibliography is not a substitute for footnotes - you must have both).
5. Attach the SACL assignment coversheet available on Blackboard.
6. Leave a 5 cm (2 inch) margin, to enable room for comments.
7. Write clearly or type your work.
8. Do not plagiarise. Plagiarism is not acceptable in any form in University courses. Plagiarism takes many forms and includes
  - Deliberately copying another student's work;
  - Copying directly from textbooks and other sources without using quotation marks;
  - Not acknowledging the sources you have used in your work (ie you must cite all references); and
  - Re-submitting an assignment used in one course as an original piece of work in another course.

Work which shows evidence of plagiarism will be penalised in line with the seriousness of the case. This may involve work being returned unmarked. In extreme cases, University academic disciplinary procedures may be invoked.



## **Guide to Your Legal Exercise Writing**

Exercises are intended to encourage you to read, to organise what you read, to think about it, to summarise it, to comment on its significance, and to make judgements and comparisons where necessary. We want you to develop your own ability to think and to research. We are looking for evidence that you have thought carefully and critically about the ideas that you are exposed to.

### ***(a) The question***

Read the question carefully. Note key words such as: assess, compare, relate etc. Be sure that you understand the topic. If you don't, make the appropriate enquiries. Do not ignore any part of the question.

### ***(b) Structure the answer***

When you have decided what the wording asks you to do, a number of points will suggest themselves, depending on your background knowledge. Limit yourself rigorously to those points you consider relevant to answering the question. If you fill your answer with irrelevant material it will only demonstrate that you have not understood the question. Each paragraph should be a cohesive, integrated unit, dealing with one main idea. There will be explanation or elaboration, leading to a summation or judgement, with a clear link to the next paragraph. Paragraphs assist the reader to follow, stage by stage, the process of your argument.

### ***(c) Writing the exercise***

Write clearly and simply. Often, reading the exercise aloud will help you to see if you are communicating effectively and whether your paragraphs flow naturally and in a logical sequence. It is required by University Statute that you keep your language gender neutral. You can almost always avoid the clumsy "he/she" construction by using plurals or by restructuring the sentence. Errors in grammar and spelling occur far too frequently. Use a dictionary, and when in doubt consult a reference book such as *Fowler's Modern English Usage*, or Wallace, D & Janet Hughes. *1995 Style Book: A guide for New Zealand Writers and Editors*, GP Publications. Common problems are incorrect use of apostrophes, use of one sentence paragraphs, and sentences with no verbs.

Write legibly, on one side of the paper only. Typed or printed exercises should be double spaced. Make sure that you do not exceed the word limit for the exercise. Length is not a virtue, and can be a vice. Do not be afraid to stop writing if you feel you have covered the material satisfactorily. Reducing the length of your exercise to keep within the word limit often results in a more focused and better written exercise.

## Tutorial Signup Instructions

**To sign up for your COML111 tutorial you need to follow the instructions below.**  
*Read these instructions carefully and take your time to follow the procedure step-by-step.*

1. Go to the signup website at: <https://signups.victoria.ac.nz>
2. Enter your SCS username and password to log into 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 **COML 111**.
4. The COML111 course page opens. It shows 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 tutorials.
6. If there are spaces left in a particular tutorial, you will see the **ENROL** button next to it. Click this button to enrol yourself in that tutorial.
7. If there are no more spaces left in a particular tutorial, you will see the **JOIN WAITLIST** button, if a waitlist is available. Click this button to join the waitlist for that tutorial. (Note that if you do this, you will be removed from any other waitlist that you may have joined earlier). If somebody withdraws from this tutorial, you will automatically be moved up the waitlist or, if you are already at the top of it, you will be enrolled in the tutorial. An email will be sent to you if you are enrolled in the tutorial from the waitlist.
8. Note that you can only join a waitlist if you have *already enrolled* in one of the other available tutorials. In other words, you must first enrol in one tutorial and then you can choose to join the waitlist for another preferred tutorial.
9. You can choose to **WITHDRAW** from a tutorial you have already enrolled in. You can also choose to **CANCEL WAITLIST** to remove yourself from a particular waitlist.
10. A **FULL** button indicates that all seats and the waitlist are full for that tutorial. You must choose another tutorial.
11. You should enrol in only **ONE** tutorial and may join the waitlist for only **ONE** other tutorial.
12. This online signup system is available around the clock over the internet. You can log in and sign up (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.*** Any requests after this date are manually handled by the Course Administrator. You must submit a written application stating why you were not able to sign up on time using the online system, along with other relevant documentation, such as medical certificate, etc.
13. You can view/confirm details of the tutorials that you are enrolled in and waitlisted for, such as the day, time and location, by clicking on **My Signups** on the left hand menu.
14. Click on **Support** on the left hand menu if you are having problems.

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