Business Law and Technology
GBAT9124

Course Overview
Semester 1 2015
Important Notice

The material contained in this study guide is in the nature of general comment only and is not advice on any particular matter. No one should act on the basis of anything contained in this guide without taking appropriate professional advice upon the particular circumstances. The Publisher, the Editors, and the Authors do not accept responsibility for the consequences of any action taken or omitted to be taken by any person, whether a subscriber to this guide or not, as a consequence of anything contained in or omitted from this guide.
Contents

Semester 1 2015 course schedule .............................................................. 2

Course staff .......................................................................................... 3
  Course Coordinator ........................................................................... 3
  Class Facilitator ................................................................................. 4
  Course Author .................................................................................... 4

Course information ............................................................................. 5
  Aims ................................................................................................... 5
  Learning outcomes ............................................................................ 7
  Skills you will need .......................................................................... 7
  Resources ........................................................................................... 8
  Relationship to other courses in the MBT program ....................... 9

Assessment ........................................................................................... 10

Continual course improvement .............................................................. 11
  Student evaluations from the last presentation of the course .......... 11
  Coordinator’s response .................................................................... 11
## Semester 1 2015 course schedule

**w/c Monday**

<table>
<thead>
<tr>
<th>Week 1</th>
<th>2 March</th>
<th>Unit 1</th>
<th>The Australian legal system and its institutions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Week 2</td>
<td>9 March</td>
<td>Unit 2</td>
<td>Introduction to torts, negligence and defamation</td>
</tr>
<tr>
<td>Week 3</td>
<td>16 March</td>
<td>Unit 3</td>
<td>Business structures and relationships</td>
</tr>
<tr>
<td>Week 4</td>
<td>23 March</td>
<td>Unit 4</td>
<td>Intellectual property</td>
</tr>
<tr>
<td>Week 5</td>
<td>30 March</td>
<td>Unit 5</td>
<td>Contracts – introduction and elements (1)</td>
</tr>
</tbody>
</table>

**Mid-term recess: Friday 3 April* – Sunday 12 April**

<table>
<thead>
<tr>
<th>Week 6</th>
<th>13 April</th>
<th>Unit 6</th>
<th>Contracts – elements (2) and vitiating elements (1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Week 7</td>
<td>20 April</td>
<td>Unit 7</td>
<td>Contracts – vitiating elements (2), discharge and remedies</td>
</tr>
<tr>
<td>Week 8</td>
<td>27 April</td>
<td>Unit 8</td>
<td>Sale of goods</td>
</tr>
<tr>
<td>Week 9</td>
<td>4 May</td>
<td>Unit 9</td>
<td>Competition law and consumer protection</td>
</tr>
<tr>
<td>Week 10</td>
<td>11 May</td>
<td>Unit 10</td>
<td>e-commerce</td>
</tr>
<tr>
<td>Week 11</td>
<td>18 May</td>
<td>Unit 11</td>
<td>Employment and industrial relations</td>
</tr>
<tr>
<td>Week 12</td>
<td>25 May</td>
<td>Unit 12</td>
<td>Ethics and criminality in business and technology</td>
</tr>
<tr>
<td>Week 13</td>
<td>1 June</td>
<td>Independent reflective learning and review</td>
<td></td>
</tr>
<tr>
<td>Week 14</td>
<td>8 June**</td>
<td>Examination week</td>
<td></td>
</tr>
</tbody>
</table>

* 3 April is Good Friday
** 8 June is the Queen’s Birthday public holiday (except WA)
Course staff

Course Coordinator

Each course has a Course Coordinator who is responsible for the academic leadership and overall academic integrity of the course. The Course Coordinator selects content and sets assessment tasks, and takes responsibility for specific academic and administrative issues related to the course when it is being offered. Course Coordinators oversee Class Facilitators and ensure that the ongoing standard of facilitation of the course is consistent with the quality requirements of the program.

The Course Coordinator is:

Helen Saunders
BA, LLB(Hons), MMus, GDip Leg Prac

Helen is a sessional lecturer teaching Business Law and Technology in the Master of Business & Technology Program. She also teaches subjects in Contract and Tort law at the University of Sydney, and Contract Law in the Legal Practitioners’ Admission Board Diploma of Law course, and is an Assistant Editor of the New South Wales Law Reports. From 2008 to 2011 she taught Contracts and Commercial Law at the Australian National University. Helen also works as a freelance legal educationalist, researcher and writer, and will one day get around to finishing her PhD.
Class Facilitator

The role of your Class Facilitator is to support the learning process by encouraging interaction among participants, providing direction in understanding the course content, assessing participant progress through the course and providing feedback on work submitted. MBT Class Facilitators comprise academics and industry practitioners with relevant backgrounds.

You will be notified of your Class Facilitator’s name and contact details in your class confirmation email sent by MBT Student Services. Details will also be available in the gallery section of your online class for face-to-face and distance classes.

Course Author

Ron Bartsch

Ron was admitted to practise as a Barrister to the High Court of Australia in 1993, and has been a lecturer in aviation law for more than 25 years. Ron is currently Managing Director of AvLaw Pty Ltd, an aviation consultancy firm, and a Director of Regional Express, Australia’s largest independent regional airline.

Ron has facilitated and authored various courses within the Australian School of Business at UNSW since 1997.

Unit 2 has been revised by Helen Saunders, Course Coordinator, to reflect developments in some aspects of tort law as a result of changing technologies. Helen has also rewritten Unit 12, to more closely focus on the practical advantages and/or disadvantages of businesses taking an ethical approach.

Acknowledgements

The previous version of this course was written by Bruce Gordon, Andrew Terry and Anne O’Rourke.

Earlier versions of some of the Units in this course were written by Ron Bartsch, Des Giugni and Jason Harris.
Course information

Aims

Modern business and technology move at an astonishing pace. Indeed, one supports the other – technological development assists business to operate more efficiently, and efficient business drives technological development. In business and technology, survival is contingent upon being commercially agile and adapting to dynamic operating circumstances. Quite often in this environment, errors are frequent and consequences dire. Managing risk effectively is essential. Understanding some basic legal concepts and processes is an important aspect of managing legal risks in business and in the technology sector. Knowledge of the law therefore affords protection to businesspeople and technologists alike.

All participants in a society are bound by the rules of that society. In a complex society such as ours, complex laws have developed over centuries to regulate the behaviour of individuals. Business, as a part of society, must also operate within the bounds of the law. In this way, the law impinges upon virtually every area of the daily operations of business.

This course provides an introduction to Australian law, with a particular emphasis on those aspects of the law that impact most upon business and technology. It is designed for students with no legal background and serves as an introduction to legal concepts. An important aim of this course is to place business and technology in their proper and prominent legal context. During this course, students should try not to become lost in the fog of legal rhetoric, and neither should they stay in the dizzying heights of abstraction. Striking an appropriate balance is part of the challenge.

As the course progresses, it should become evident that, due to the complexity of the law, significant barriers exist to understanding it fully. Whilst this course aims to overcome some of those barriers, it does not aim to turn students into business and technology lawyers, or the quintessential bush lawyer. It is hoped that students will gain from this course a better awareness and understanding of the law, such that they can identify when legal issues may impact upon their business (and sometimes personal) activities. This understanding also helps to identify when legal advice is needed – good businesspeople recognise when to say ‘I need a lawyer’.

Students often find the law daunting, especially at first, partly due to its sheer size and complexity. Students also confront a new language, sometimes called ‘legalese’, but this course introduces various areas of law, with minimal use of ‘legalese’. Some rather complex legal concepts are also introduced, but in a logical and reader-friendly manner. Rather than becoming apprehensive or discouraged, students are encouraged to embrace the challenge and enjoy their venture into studying ‘the law’.
Structure

Unit 1, *The Australian legal system and its institutions*, looks at the nature of the law and the sources and structure of Australian law. The Unit considers how English law was received into Australia and how a uniquely Australian law has developed over the past two and a quarter centuries. Australia’s legal institutions are also examined.

Unit 2, *Introduction to torts, negligence and defamation*, considers the law of civil wrongs. Starting with a brief overview of the general principles of tort law, as reflected in the development of the tort of negligence, the Unit then goes on to examine the tort of defamation, with particular regard to its place in a global technological context.

Unit 3, *Business structures and relationships*, outlines the various structures, both corporate and non-corporate, a modern business may take. Issues surrounding sole proprietorship and partnership are considered, as well as aspects of the law of companies. The ability to appoint agents to act on your behalf is also considered, along with the special rules that govern such relationships.

Unit 4, *Intellectual property*, summarises the law surrounding the protections afforded to various labours of the mind. Copyrights, registered designs, patents and trademarks (both registered and unregistered) each protect slightly different categories of intellectual endeavour, and all are considered in this Unit. This Unit also touches on the protection of confidential information and privacy concerns as well as interests in domain names.

Unit 5, *Contracts – introduction and elements (1)*, outlines the law of contract and introduces it as a fundamental concept to business law. Contract law permeates the business world, regulating and enforcing essentially every transaction any business person enters into. The essential elements of a contract as to the intention to create legal relations, agreement between the parties, completeness and certainty are covered.

Unit 6, *Contracts – elements (2) and vitiating elements (1)*, describes the remaining elements of a valid contract which separate contracts from informal, personal or ‘domestic’ (and unenforceable) agreements – the elements of consideration and legal capacity. Elements that vitiate the formation or performance of a contract are also considered, such as mistake, misrepresentation, duress, undue influence and unconscionable conduct.

Unit 7, *Contracts – vitiating elements (2), discharge and remedies*, considers the further vitiating elements of illegality and frustration. It also gives students an overview of what is included in a contract and how a contract operates once formed. As well, the Unit discusses how a contract can be brought to an end, and what remedies are available in the event of breach of contract.
Unit 8, *Sale of goods*, introduces the law surrounding the sale of goods to consumers, including statutory implied terms, and the remedies available to consumers in both State and Commonwealth law.

Unit 9, *Competition law and consumer protection*, considers law in place to preserve competitive markets and to protect the ‘consumer’. Strong protections can substantially lessen competition. Equally strong is the prohibition of misleading and deceptive conduct.

Unit 10, *e-commerce*, describes the special rules of business that apply in the high-technology world of electronic commerce, or ‘e-commerce’. Legal concepts of contract, tort, privacy and consumer protection are considered in the special environment that exists online.

Unit 11, *Employment and industrial relations*, provides an overview of the current laws surrounding the employment relationship. Most people in modern society will engage in an employment relationship, whether as employee or employer – or even as independent contractor or principal. This Unit considers these relationships in light of the Australian industrial relations system.

Unit 12, *Ethics and criminality in business and technology*, considers the ‘right’ way to do business in the modern world and considers case studies involving the HIH Insurance and One.Tel corporate collapses of 2001. The Unit also considers concepts of criminal law, and how white-collar crime affects business.

**Learning outcomes**

After studying this course you should be able to:

- discuss the role and development of the law under the Australian legal system;
- describe the impact of major areas of law on business operations, particularly where technology is concerned;
- hold informed discussions when an understanding of basic legal principles and concepts is required;
- identify when legal expertise is required in business situations;
- clearly communicate in writing the relevant principles and concepts.

**Skills you will need**

There are no pre-requisites for this course.

Please refer to the *AGSM Learning Guide* (available in Moodle) for information you will find very useful in pursuing your studies.
Resources

Prescribed textbook

The prescribed textbook for this course is:

ISBN 9780455233680 (Book)
ISBN 9780455234908 (eBook)

The publisher’s website for this text and the additional online resources for students will be advised at the beginning of the course.

Other recommended reading

Preliminary reading

Prior to commencing Unit 1, it is strongly recommended that you read the introductory pages of your textbook, *A Guide to Business Law*, especially pages xv to xxv. That section outlines some skills you will need in order to answer legal problems and essay questions, and provides some advice about legal citation methods.

Books

Each topic in *Business Law and Technology* is the subject of much more detailed study in law schools around Australia and the world. If you feel you need further detail on any topic covered in this course, there are many books available in university law libraries. Your Course Facilitators can also recommend texts of particular use in each topic.

Journals

Law journals are also available on many of the topics covered in *Business Law and Technology*, and articles are written regularly on the leading edge of research in all these fields. Whilst these journal articles are interesting, this course does not require that level of research.

Websites

You will not be surprised that there is a substantial amount of relevant information available on the internet. Three sites of particular interest are noted below (other sites are referred to in the particular Units):

AustLII, the Australasian Legal Information Institute, is a joint facility of the Faculties of Law at the University of Technology, Sydney (UTS) and the University of New South Wales (UNSW). It contains Australian (federal and state) legislation and case law.

[www.austlii.edu.au](http://www.austlii.edu.au)

The website of the Australian Competition and Consumer Commission contains a range of useful information relating to restrictive trade practices.
and consumer protection.

www.accc.gov.au

The website of IP Australia, which administers Australia’s statutory intellectual property regime. It contains much helpful information about the world of intellectual property and provides links to other relevant sites.

www.ipaustralia.gov.au

Relationship to other courses in the MBT program

The management of legal risk is just as important as the management of other business risks. Arguably, legal risk underlies many other business risks, so an understanding of how the law operates and applies to business at a fundamental level is essential for modern managers. This course is an introduction to the legal concepts surrounding business, with some focus on business in the technology sector.

This course is dedicated to legal concepts and structures, whereas other courses may address legal considerations in a single Unit. Such a focus allows this course to develop those concepts more fully.

Legal aspects are also briefly addressed in the following courses: GBAT9117 E-Business: Strategy and Management, GBAT9106 Information Systems Management and GBAT9103 Business Management for a Sustainable Environment.
Assessment

There are two assignments and an examination for GBAT9124 Business Law and Technology. Note that assignments must be received by 9.30am Sydney time on the due dates.

<table>
<thead>
<tr>
<th>Participation</th>
<th>Throughout the semester</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Assignment 1 (Essay)</td>
<td>Monday 13 April 2015 (Week 6)</td>
<td>20%</td>
</tr>
<tr>
<td>Assignment 2* (Essay or problem-solving style)</td>
<td>Monday 25 May 2015 (Week 12)</td>
<td>35%</td>
</tr>
<tr>
<td>Examination†</td>
<td>Wednesday 10 June 2015 (10am if sitting on campus)</td>
<td>30%</td>
</tr>
</tbody>
</table>

* Assignment 2 provides students with a choice between a standard essay-form assignment (with a choice of questions), or a legal problem-solving style assignment.

† Examination is open book; duration is 2 hours, with 10 minutes reading time.

Extensions to assignment deadlines will be granted only in exceptional circumstances, and where adequate supporting documentation can be provided. Please note that work commitments do not constitute grounds for an extension. Your Class Facilitator may approve an extension of up to two days, after which requests must be made through the special consideration process. For details about this process, see: https://student.unsw.edu.au/special-consideration

In the case of late lodgement without an approved extension, 10% of the assignment weighting will be deducted for each day late.

Please note the examination date and mark it in your diary. If you will not be available to sit the exam on the specified date then you must choose another course. Supplementary exams will only be permitted in exceptional and unforeseen circumstances, and after submission of the requisite documentation for special consideration, see: https://student.unsw.edu.au/special-consideration
Continual course improvement

MBT courses are revised each time they run, with updated course overviews and assessment tasks. All courses are reviewed and revised every three years and significant course updates are carried out in line with industry developments, and also when new editions of prescribed textbooks are published.

The MBT surveys students via the UNSW CATEI system each time a course is offered. The data collected provides anonymous feedback from students on the quality of course content and materials, class facilitation, student support services and the MBT Program in general. This student feedback is taken into account in all course revisions.

The UNSW Business School also monitors the quality of students’ learning experiences in all its programs. A random selection of completed assessment tasks may be used for quality assurance purposes. This information will be aggregated and used:

- to determine the extent to which program learning goals are being achieved for accreditation purposes
- to improve the quality of UNSW Business School programs.

All material used will be treated as confidential and these processes will have no bearing on course grades.

Student evaluations from the last presentation of the course

Students show interest in the following areas: Australian legal system; business law; contract law; technology contracts; intellectual property law; regulatory compliance; work health safety. In particular, students are interested in how changing technologies impact/are affected by these areas.

Coordinator’s response

The course retains those areas listed above, and course activities have been redesigned to place more emphasis on issues of technology.