



Foundation Certificate in Marketing - Stage 2

REGULATORY ENVIRONMENT FOR MARKETING

THURSDAY, AUGUST 14, 2008. TIME: 9.30 am - 12.30 pm

Please attempt **FIVE** questions.

(If more than the specified number of questions are attempted, delete those you do not wish to have marked. Otherwise the Examiner will mark the **FIRST** five questions in your Answer Book).

All questions carry equal marks.

Do **NOT** repeat question in answer, but show clearly the number of the question attempted on the appropriate page of the Answer Book.

You should refer to legal authority (case law, statutes, regulations and/or European Union law etc where relevant to support your answers).

1. You have a colleague from Germany studying on the course who asks for your help. She is confused about the various sources of law in Ireland (as the German legal system is different). Give your colleague an explanation of the sources of law in Ireland and illustrate them with examples to aid her understanding. (20 marks)
2. In the area of contract law explain the following concepts with particular reference to the area of marketing. Use brief examples and reference to case law to support your answer wherever possible.
 - (a) Contractual offers compared with invitations to treat. (6 marks)
 - (b) Contractual offers and acceptance transmitted electronically. (4 marks)
 - (c) Misrepresentation. (6 marks)
 - (d) Damages for breach of contract. (4 marks)

P.T.O.

3. Frishburo Ltd. is a company which has recently been established in Ireland. It specialises in the creation of 'ambient atmospheric solutions for the corporate world' i.e. air fresheners and perfumes for the office environment. The air fresheners work by being plugged into an electric socket and Frishburo service the dispensers and replace them every three months.
- Consider and explain Frishburo's possible liability in both negligence and under the Liability for Defective Products Act 1991 in the following circumstances.
- (i) Two months after the product was marketed there were complaints from businesses and claims from employees of companies. A particular fragrance called 'Blue horizons' had caused serious skin reactions to those who worked within 10 metres of the dispenser which had required medical treatment and prolonged time off work. (12 marks)
 - (ii) Certain types of dispenser of the fragrance have proved susceptible to breakage and two office workers suffered burns when they tried to repair the dispensers with tape. The particular forms of dispenser which were faulty were manufactured by Tiger Factory Inc based in the Far East and imported by Norfinn Ltd. which is based in Sweden. (8 marks)
4. You have started work as a Marketing and Customer Relations Manager of a chain of sports shops. As part of your role you are required to update and explain shop policy and procedures on the Sale of Goods Acts.
- (a) Fully explain the effect of the Sale of Goods Act and the nature of the implied terms protecting a consumer. (8 marks)
AND
 - (b) Explain why signs and notices which were previously in the shop such as 'No refunds or exchanges after 30 days of purchase' should be removed. (4 marks)
AND
 - (c) A customer bought a rowing machine for €1,500 from the sports shop two months ago. It has been used correctly but due to a hidden manufacturing defect the gearing system has broken. Explain the legal rights and remedies of the customer. (8 marks)

5. A client, Sam, wishes to set up in business as a solar panelling consultant. He is considering asking a former colleague and effective marketing manager, Tom, to join him in a partnership business.

Explain to Sam:

- (a) Important legal points he should consider when deciding whether a partnership is the appropriate business organisation. (5 marks)
- (b) Any advantages and disadvantages of establishing a limited liability company. (5 marks)

AND

Assume that the business is a success. After a year Sam and Tom wish to employ Ursula as an agent selling their product in the UK. Explain to Sam and Tom the main types of written term that should be contained in a commercial agency agreement. (10 marks)

6. In the area of competition law:

- (a) Explain and illustrate the fundamental concepts of ‘anti-competitive agreement’ and ‘abuse of a dominant position on the market’. (12 marks)

- (b) Critically assess the functions and powers of the Competition Authority as provided for under the Competition Acts of 2002 and 2006.

You should support your answer by reference to relevant examples of the exercise of these powers and any relevant court decisions in this area. (8 marks)

7. Adam and Eve have invented a new form of safety clothing using nanotechnology. The textile automatically changes colour into a high visibility type of clothing when natural light fades. They wish to name their product *Nightsitewear*.

Explain to your clients Adam and Eve the types of intellectual property protection that may be available in Ireland. (20 marks)

8. Write an explanation of **two** of the following

- (a) The Small Claims Court.
- (b) The legal controls on exclusion clauses in consumer contracts.
- (c) The implied terms in contracts for services.

(20 marks)