



## EXAMINER'S REPORT

MAY 2009

### REGULATORY ENVIRONMENT FOR MARKETING

#### General Comments

Strong candidates this session directly addressed the questions asked, rather than writing “all that was known” about the particular topic. Note form in answering the questions should be avoided (except if there is a rush to complete the fifth question) as a series of bullet points does not explain the impact or significance of the relevant point to the examiner.

#### Question 1

This question allowed students to demonstrate knowledge of the sources of law in Ireland. The strongest candidates gave short, appropriate examples of each type of law and addressed the issue of the status of each source. This was generally done quite well.

#### Question 2

A question requiring a clearly written outline of the main principles of negligence. A practical approach with some relevant case law in support written for a business context was required. Few candidates demonstrated awareness of the vicarious liability concept and confused this with the duty of care owed to employees and as a safe system/pace of work and health and safety issues.

#### Question 3

The intellectual property question retained its popularity. The best candidates dealt with relevant intellectual property protection measures such as short-term patents, trademark protection and design rights. The advantages of some of these aspects and how protection is secured in Ireland/Europe.

The site of [www.patentsoffice.ie](http://www.patentsoffice.ie) and the links are excellent sources of information and examples for students

A brief summary of the concept of limited liability and an explanation of pros and cons of incorporation, post incorporation formalities, costs, records, corporation tax aspects. Many candidates also made good points concerning marketing considerations and branding in a company vehicle.

#### **Question 4**

- (a) This was a straightforward question outline of the principal relevant sections of the Sale of Goods and Supply of Services Act 1980 in relation to the implied terms of goods and services. The services element was omitted by many candidates. Only one candidate dealt with all issues to a high standard
- (b) Exclusion clauses a brief explanation of what an exclusion clause is and the protection given to consumer buyers. Very few dealt with the issue of the exclusion clauses and protection given to the consumer by the Sales of Goods and Supply of Services Act 1980 or the European Communities (Unfair Terms in Consumer Contracts) Regulations, 1995 and 2000.
- (c) Few candidates dealt with the issue of damages or the small claims court as a means of pursuing a claim.

#### **Question 5**

The first part of this question gave candidates an opportunity to describe the characteristics of an agency relationship and to explain the main terms that should be incorporated into a written agency agreement including remuneration, termination, duties of agent , indemnification etc. The strongest candidates applied their knowledge to the problem scenario of a disclosed agency situation.

#### **Question 6**

This was a problem question on the scope and enforcement of national competition law. There were some good answers to this question, particularly on the (a) and the potential abuse of a dominant position. The powers of the Competition Authority were also summarised well and some candidates even referred to the significant, recent, EC case of Intel which showed a good level of interest and awareness. The best answers geared their material to the question

#### **Question 7**

This was a question on the Consumer Protection Act 2007. The wide quotation and guidance in answering allowed students to select elements relating to marketing. Few candidates tackled the question. Some issues that could have been discussed were the concepts of unfair consumer practices, misleading and aggressive practices.

#### **Question 8**

This was a straightforward question which gave the student a choice of topics on consumer law and the legal system. The question required an explanation, so a basic ladder diagram of the court structure was not sufficient to score a pass on this section- an explanation of key features needed to be provided.