

Competition & Consumer Law Examination -
September 2013

Overall, a satisfactory outcome.

Almost ½ of students achieved a total mark of credit or better and the average of those who passed was 63% (inclusive of the assignment mark). As a general observation, even where students demonstrated a satisfactory understanding of the operation of various sections of the CCA there was an observable disinclination to apply the relevant cases.

Part A

Question 1

50% of students attempted this question requiring notes on 4 out of 7 sub questions and all passed reasonably comfortably. A number of the sub parts to the question attracted full marks. It was apparent that students who attempted this question were able to use the information in the problem questions in Part B.

Question 2

Attempted by a further 50% of students. The question on the derivation of "markets" under s 50 of the CCA was poorly answered whereas the questions on "contracts", "arrangements" or "understandings" and statutory guarantees were reasonably well answered.

PART B

Question 1.

This question, on resale price maintenance [s48 of CCA], was attempted by 90 % of students. Generally a poor mark was a reflection of a disinclination to apply the relevant cases and otherwise to confuse some of the threshold elements giving rise to a breach..

Question 2).

This question, on deceptive trade practices (e.g. s 18, 29 etc of ACL), was attempted by all students. The quality of the answers ranged from excellent to very poor. Again, there was a disinclination to apply the relevant cases and to deal with the threshold issues giving rise to a breach.. Some students also failed to come to a considered conclusion.

Question 3

Surprisingly, only 1 student attempted this question on statutory guarantees and manufacturers liability for products containing a defect..

PART C

Of the 6 questions in Part C students were required to answer 2.

Question 1

The quality of the answers to this question on s 45 of CCA was generally good..

Question 2

This question on unconscionable conduct, pursuant to ss 20, 21 & 22 of the ACL, was attempted by 60% of students. Generally the answers were very competent..

Question 3

This question on injunctions, damages & other orders was attempted by about 20% of students. The standard was generally satisfactory..

Question 4

This question on the statutory guarantees was unpopular but when attempted the answer was competent.

Question 5

20% of students attempted this question requiring notes on selective cases. The standard of answers varied..

Question 6 of Part C

This question on "unfair term" of a consumer contract was attempted by 50% of students and generally was well answered.

The Assignment.

The standard was generally very satisfactory. It was evident that by achieving a solid mark for the assignment, many students were able to attain an overall mark of credit or better.