

# CONSUMERS

Presented by John Andrews

# The Syllabus

**Principal Focus - this is what the focus study is all about!**

Students learn about the rights of consumers and the effectiveness of the law in achieving justice for consumers. Syllabus p49.

# CONTENT

There is a lot of content to learn in  
Consumers.

Don't get lost or bogged down, remember the  
principal focus of the study:

“The rights of consumers and the effectiveness of the  
law in achieving justice for consumers”.

# Themes

# What is a CONSUMER?

An individual who purchases goods or services for private domestic use.

The key term here is domestic, so business or commercial users are not considered to be consumers, although they are offered protection under other legislation.

# History

## In the village

- Limited needs
- Limited wants
- Small population
- Everyone knows everyone
- Subsistence economy
- Rural economy

*I*                      *R*  
*N*                      *E*  
*D*                      *V*  
*U*                      *O*  
*S*                      *L*  
*T*                      *U*  
*R*                      *T*  
*I*                      *I*  
*A*                      *O*  
*L*                      *N*

## In the city

- Increasing needs
- Unlimited wants
- Large population
- Buyers don't know sellers
- Consumer economy
- Industrial economy

# What issues did this change create ?

- Buyers don't know sellers
- Development of conspicuous consumption (consumer society)
- Lack of contractual obligations
- Increase in power of corporations
- Laissez faire philosophy
- Primacy of profit

What should the government's role as regulator be?

What were the responsibilities of sellers/producers?

Caveat

Laissez

Emptor

Faire

What were the responsibilities of buyers?

# How has the role of the state changed over time?

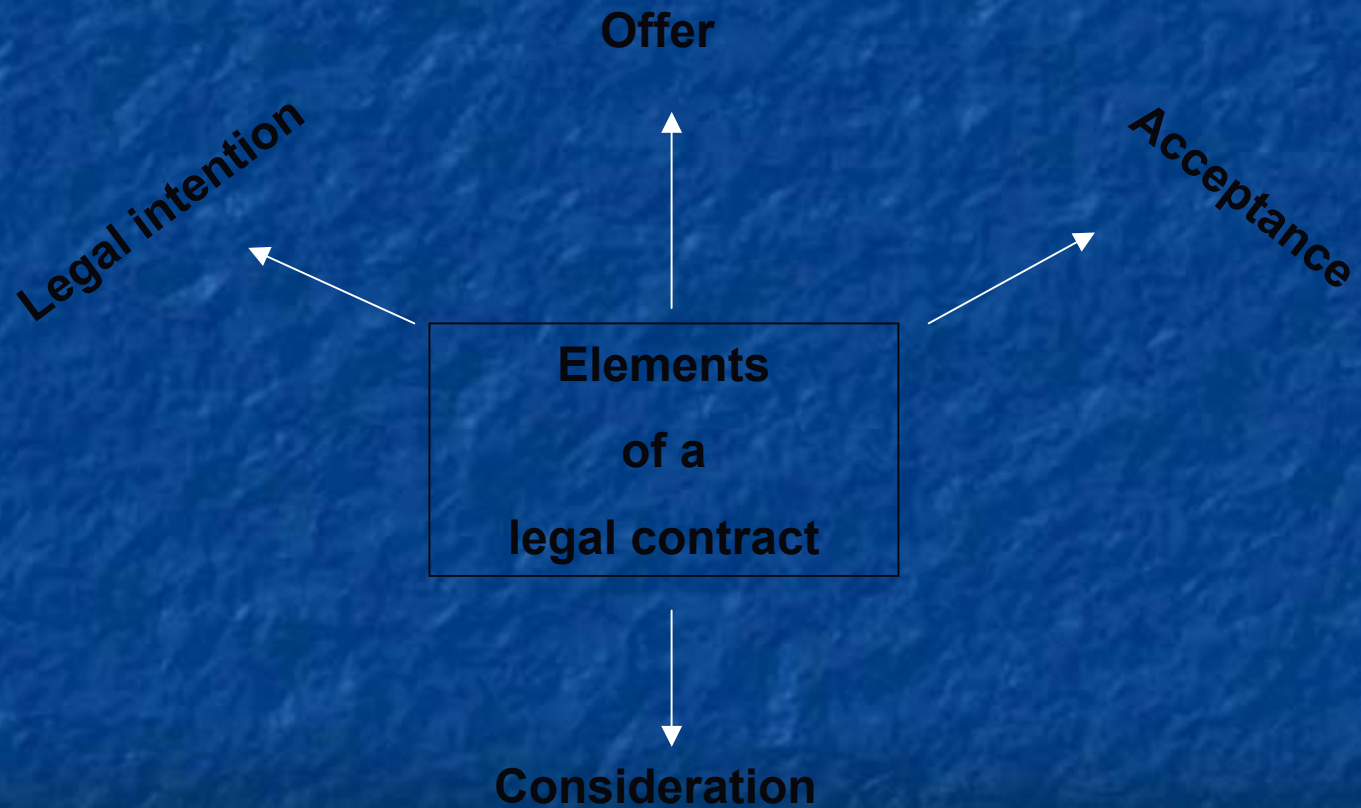
Provision of law and order

standards

Participation in market place/regulate market place

Consumer protection.fair trading/deregulation

# CONTRACTS



Donoghue

v.

Stevenson

Why the big deal over a snail?

Merchantable  
quality

Fit Description

# Implied terms (Sale of Goods Act)

Fit  
for  
purpose

Match  
sample

Title

Common law breach, injunction, damages, reinstatement

Issues duress, unconscionability, language

# Consumer remedies regarding contracts

Contracts Review Act

# Marketing

The various strategies and techniques used by sellers to “sell” their goods to consumers

These range from a roadside stall to a multi million dollar “half yearly sale”, and includes direct marketing, tele-marketing, parties, and simply offering goods for sale in a retail outlet.

The assumption in these examples of marketplace is that the buyers and sellers meet on even terms, the buyer is free to make a decision about which good they will choose to buy from those offered.

# Regulating Markets

Governments have identified and attempted to regulate a range of marketing practices which are deceptive or dishonest or which are unfair to consumers

Contracts

Cooling off periods

Contracts Review Act

Transparency

Documents must be explained, payments and interest clearly stated

Collusive practices

Price fixing by sellers is a criminal offence.

Sale of Goods Act

1923 NSW

Fair  
Trading  
Act  
1974  
NSW

# Regulation of Marketing and Advertising

Trade  
Practices Act

1974 Cth

Motor  
Dealers Act  
1974 NSW

Door to Door Sales Act  
1967NSW

# The theory

Advertising allows consumers to make a free choice from the whole range of goods available to them in the market place.

Advertising is simply a neutral communication tool of the seller/marketer and sellers are entitled to do their best to convince the buyer that their particular product is the best.

– and there really is a Santa Claus!!!

# Controls on advertising

Why are controls needed ?

False and misleading claims – Carbolic Smoke Bomb

Deceptive advertising

Relative **power** of advertisers and buyers

Changing nature of western consumer society

Justice and safety

# Controls on advertising

## Statutory

Trade Practices Act

Sale of Goods Act

Fair Trading Act

Self regulation

F.A.C.T.S

# Occupational Licencing

What is a licence?

An official permit to carry out a particular action, eg. Drive a car, fix a car, carry out electrical work.

Why does the government think some occupations should be licenced?

Safety of the public

Regulation- remember that this is one of the purposes of law, to regulate behaviour

# Occupational Licencing

## State Regulation

What occupations does the government regulate?

Motor Traders & Repairers

Motor Vehicle Repairers Act  
NSW 1980

Electricians

Plumbers

Builders

## Self Regulation

What occupations are self regulated?

Doctors

Lawyers

Dentists

Psychiatrists

# Occupational Licencing

Who supervises different occupations?

Government Regulators eg.

Office of Fair Trading

Are there avenues for the review of decisions?

To provide justice

# Financing a purchase

## In your grandparent's times

Almost everything was cash,  
only cars and houses were paid  
for with borrowed money

Consumers saved up until  
they had enough or used  
Hire Purchase or Lay-by

## Today, in your times

It is possible to use other people's  
money (CREDIT) to pay for almost  
all consumer purchases

Consumers can use credit  
unwisely and get into  
serious financial trouble

# Financing a purchase

Where does the money (credit) come from?

Credit Providers- firms who lend money to consumers

## **Credit Providers**

**Banks**

**Credit  
Unions**

**Retail  
Stores**

**Money  
Lenders**

**Finance  
Companies**

Security is?

Interest and fees-the cost of credit

The first rule- if a deal is too good to be true, it probably isn't!

# RIGHTS

That consumers have

## Consumer rights at law include

protection against unconscionable contracts

Protection against misleading or deceptive advertising

Protection against duress

Goods to be :

Of merchantable quality

Fit for the purpose

Match description/sample

Title

# Consumer Redress

Knowledge/education

Media

Self  
Help

## Range of Options

Mediation  
CJCs

Government Bodies

CTTT /OFT/ACCC/ASEC

arbitration

Other Agencies  
ACA/NRMA/

Court action

Last resort

the extent to which law reflects moral and ethical standards

# **Morality, Ethics and Commitment to the Law**

compliance

**commitment to the law**

non-compliance

**factors to be considered when evaluating the effectiveness of law in achieving justice: for individuals:**

equality, accessibility, enforceability, resource efficiency, protection and recognition of individual rights

# Effectiveness of the Law

**factors to be considered when evaluating the effectiveness of law in achieving justice:for society:**

resource efficiency, law as a reflection of community standards and expectations, opportunities for enforcement, appeals and review, balance of individual rights and values and community rights and values

**factors to be considered when evaluating the effectiveness of law in achieving justice: for individuals:**

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Why does the law (need to) change?

# Law Reform

Who changes/reforms the law?

# **Key Questions/Issues**

**From the syllabus**

**To what extent can competition policy achieve equity and justice?**

**How useful are legal controls in protecting the rights of consumers in regulating manufacturers/suppliers?**

**How effective is the law in protecting consumers, manufacturers/suppliers?**

# RUBRIC

PLAN

# Exam questions

## SURFING THE WEB IN CONSUMER LAW

Visit the following sites, you may be familiar with them already, most of them are referred to in your textbook and in class.

- A.C.C.C [www.accc.gov.au](http://www.accc.gov.au)
- Lawlink [www.lawlink.nsw.gov.au](http://www.lawlink.nsw.gov.au)
- Office of Fair Trading [www.fairtrading.nsw.gov.au/](http://www.fairtrading.nsw.gov.au/)  
The Office of Fair Trading administers over 80 pieces of legislation. Check them out.
- Australian Law Reform Commission [www.alrc.gov.au](http://www.alrc.gov.au)
- NSW Law Reform Commission  
<http://www.lawlink.nsw.gov.au/lrc>

- C.T.T.T - Consumer, Tenancy and Trading Tribunal can be entered through Fair Trading site  
[www.fairtrading.nsw.gov.au/secondarymenus/cttt.html](http://www.fairtrading.nsw.gov.au/secondarymenus/cttt.html)
- Austlii [www.austlii.edu.au](http://www.austlii.edu.au)  
Look at NSW and Commonwealth legislation under "C" for consumers
- Consumers on line [www.consumersonline.gov.au](http://www.consumersonline.gov.au)
- Articles, consumer issues and some great links to other sites eg the Fraud Quiz, the Gull Awards and the "little black book of scams."
- Australian Securities & Investment Commission  
<http://fido.asic.gov.au/fido/fido.nsf>
- LawforYou <http://www.law4u.com.au/Nsw/>