

Legal Profession Admission Board

March 2024

Competition and Consumer Law

Examiner's Comments

General observations:

1. Most topics in the course were covered in the examination questions.
2. Candidates needed to answer all questions. Providing a good answer required making careful choices about which contentious issues to raise and analyse in the response.
3. Candidates were expected to identify and address the most relevant issues in each question, and to avoid discussion of issues that were minor, not contentious or not really raised on the facts or for the relief sought by the party you were asked to advise. Candidates were also expected to cogently apply the facts to the principles from the cases and legislation and to provide supported conclusions. Many responses raised relevant issues but failed to follow through with careful analysis based on the relevant caselaw and facts to reach a reasoned conclusion.
4. 21 candidates sat the examination. Final exam marks were in the range of 41 to 66 out of a total of 80 available marks.
5. Some areas of improvement include: answering the question asked (eg, where asked to advise on specific issues, some students advised on other issues); not restating the facts or restating the facts of prior cases. A good answer uses the provided facts in a considered analysis of applying the law (including the ratio of prior cases); answering the questions based on the course content (including dealing with the questions based on current rather than historic provisions of the CCA as some responses did).
6. As the examination was a confidential examination, these feedback comments cannot identify the specific issues in the questions.

Questions:

7. The examination comprised of four compulsory problem questions.
8. **Part A** contained one problem question covering consumer law issues, including misleading and deceptive conduct, unconscionable conduct and unfair contract

terms. Some responses raised other issues which was not necessary and meant that other answers were incomplete. Many responses did not consider what kind of relief a person in the position of Savani may seek to obtain by invoking the ACL, which affected the cogency of your analysis.

9. **Part B** contained three questions covering competition law issues, including cartels and s 45 in Question 2, ss 46 and 47 in Question 3 and s 50 in Question 4.