TAHM 3001
TOURISM: LEGAL ASPECTS
AND RISK MANAGEMENT

COURSE OUTLINE

Prepared by
Michael Peters & Dr Roger March

Session 1, 2005
COURSE DESCRIPTION

This course has two components: Law & Tourism and Risk Management in Tourism

LAW

Virtually every aspect of tourism is governed by the law. The law component of this course is designed to provide the student with both a theoretical and practical working knowledge of the law and its application to the tourism and hospitality industry. This course will predominantly focus on the Australian law and legal system, with some reference to international law. This course also introduces areas of substantive law relevant to tourism and hospitality with particular reference to the law of contracts, business entities, marketing law, finance, property, law regulating carriers, travel agents, operators and intermediaries, torts law (with particular reference to negligence), aviation, shipping and the international law of tourism.

Objectives

The objectives of the legal component of the course are to:
1. provide a general introduction to the law and its development in Australia and globally;
2. examine the legal environment of the tourism and hospitality industry in Australia and globally;
3. examine the operations of the courts, parliament and the legal processes in Australia and globally;
4. introduce the necessary skills to examine and manage legal problems;
5. outline the various categories of law;
6. examine the law of torts and contracts;
7. evaluate the laws regulating hotel operators, catering, travel agents and operators;
8. review the laws of consumer protection and competition policy and law;
9. examine the essential elements of hotel–accommodation law;
10. examine the regulation of carriers and travel organisations;
11. evaluate the main aspects of international tourism law and to
12. examine the law regulating global travel agreements visa and passport laws.

The law component also seeks to develop specific skills which will benefit students throughout their course and professional careers, these skills being:

- proficiency in oral and written communication
- an analytical approach to problem-solving (i.e. ability to identify problems, research relevant material and propose an outcome)
- the ability to resolve an issue in a logical and structured manner
an appreciation of the interaction of socio-economic factors in the development of tourism law in Australia and globally.

RISK MANAGEMENT

Risk management in tourism refers to the protection of life, health and physical, psychological and economic integrity of travellers, tourism employees, host communities, and the destination more broadly (including the natural and cultural environment), as well as the safeguarding of the security interests of tourism entrepreneurs and the countries sending and receiving visitors. Risk also includes business risk faced by individual organisations, especially small organisations that are less well equipped to handle such risk. In this theme, risk is considered at both the macro level (destinations) and the micro level (enterprises), and potentially at the visitor level. Models will also be developed to identify the approaches that can be adopted under various scenarios to recover from crises.

Objectives

The objectives of the risk management component of the course are to:

1. examine the increasing relevance and importance of the risk management in the tourism industry;
2. classify the different kinds of disasters and crises and the varying real and potential impacts of each
3. explain the elements of the risk management process;
4. explore and generate insights from case-studies of recent disasters and crises
5. provide you with a conceptual framework for i) understanding risk management as it applies to tourism organisations and ii) generating realistic and appropriate responses to future disasters and crises.

INDUSTRY RELEVANCE

This course is of particular relevance to those seeking to enter the tourism and hospitality industry in Australia or overseas. The industry consists of travel agents tour operators, intermediaries, carriers (airlines, bus, train, shipping operators) travel insurance, and infrastructure providers, hotels, theme parks, tourism marketing firms, licensed clubs, entertainment venues and catering service providers.

TEACHING STAFF

Michael Peters (BA (UNSW), LLB (Sydney) MCom (UNSW) and LLM (London)), is solicitor and barrister of the Supreme Court of New South Wales, High Court of Australia, and has practised law in Australia, the UK and Hong Kong and has
served as a legal adviser to a range of tourism based projects and businesses.

Roger March (BA (UNSW), Dip Ed (Sydney), MCom (Hons) (UNSW), PhD (UNSW)) has taught tourism & marketing-related courses at UNSW since 1996. Works as a consultant on inbound tourism and destination marketing issues, with particular reference to the Japanese, Chinese and Asian markets. Visited Sri Lanka in February 2005 and will draw on that experience during course discussions.

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<thead>
<tr>
<th>Staff</th>
<th>Room</th>
<th>Phone</th>
<th>Email</th>
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<tbody>
<tr>
<td>Michael Peters</td>
<td>JG G12</td>
<td>9385-3251</td>
<td><a href="mailto:m.peters@unsw.edu.au">m.peters@unsw.edu.au</a></td>
</tr>
<tr>
<td>Dr Roger March</td>
<td>JG 309</td>
<td>9385-3605</td>
<td><a href="mailto:r.march@unsw.edu.au">r.march@unsw.edu.au</a></td>
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TIMES AND LOCATIONS
Monday 10.00 to 1.00 pm CE 101

CONSULTATION
Immediately after the lecture or by appointment

TEACHING STRATEGY - LAW COMPONENT

The course is conducted on the basis of two-hour lectures and a one hour tutorial (total of three hours face to face per week). The lecture is not recorded. **Attendance is compulsory. Tutorials are compulsory.** Each lecture will be based on the prescribed text chapter as set out in this course outline. The lecturer will propose various situations and problems common in the tourism industry that mirrors the reading material.

Students are encouraged to think the issues through, challenge the logic, relevance of the law and the procedures used to apply the law. In this manner students will be able to experience the dynamic, contemporary and relevant nature of the topic and be able to appreciate the mechanics of tourism law and its impact on the hospitality and tourism industry. Tutorial questions will be distributed at the lecture.

Work Load Expectations
It is expected that you will spend at least SIX hours per week to study for this course, in addition to your attendance to the lecture/tutorial. This time should be made up of reading, research, working on exercises and problems. In periods where you need to complete assignments or prepare for examinations the workload may be greater. Over commitment has been a cause of failure for many students. You should consider the required workload when planning how to balance study with employment and other activities.
Assessment
The assessment consists of THREE assessment tasks for this course: a mid-session exam, assignment, and final exam. The purpose of the mid-session exam is to test the knowledge of the student. The purpose of the assignment is to focus on the research, analytical, and writing skills of the student, and the purpose of the exam is to examine both the knowledge of the course content and the student’s ability to apply the knowledge in a critical, analytical manner in typical situations and circumstances found within the tourism industry.

Assignment Question
To be distributed in class. All written assessment tasks are to be submitted to the lecturer at the end of the lecture. Students **must** also keep a copy of their written assignments.

Teaching Strategy – Risk Management Component

This component, consisting of six weeks due to one public holiday, comprises of two introductory lectures followed by four weeks of student-focused activities. In each of weeks 11-13 we will examine a real or potential major tourism disaster or crisis and either develop scenarios (in the case of potential disasters) or evaluate the plans implemented and generate insights and conclusions (in the case of actual disasters). Group work will be evaluated during the course and the final exam will require you to develop your responses to a real or potential disaster. Readings will be distributed during the course to supplement class activities.

Assessment

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<tr>
<th>Assessment Task</th>
<th>% of Assessment</th>
<th>Due Date</th>
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<tr>
<td>Law Component</td>
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<tr>
<td>Mid Session</td>
<td>10</td>
<td>Week 4</td>
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<tr>
<td>Assignment</td>
<td>20</td>
<td>Week 8</td>
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<tr>
<td>Final exam</td>
<td>20</td>
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<tr>
<td>Risk Management Component</td>
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<tr>
<td>Class Work</td>
<td>20</td>
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<tr>
<td>Final Exam</td>
<td>30</td>
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Performance
It is important that students are able to develop an understanding of the way the law influences commercial behaviour. Students are provided with the opportunity to develop a working knowledge and the skills to apply the law within a commercial context. Formal assessment tasks examine your ability to deal with legal issues. **Students will be required to complete every assessment task, attend lecture and tutorials.**
LAW MATERIALS

Prescribed Text
Peters, March, Dwyer,  Tourism Law, LPA, Sydney 2005

Each lecture will be based on this text. The lecture provides an overview of the core concepts it does not replace the textbook. Students’ are expected to know the contents of the text.

Further Recommended Materials
There are a number of other texts which students may find useful (be careful to get the latest edition). A limited number of these texts are available in the Law Library Close Reserve Level 8 of the library tower. For example:

Latimer, Australian Business Law (CCH)
Peters M Principles of Business Law, Law Press Asia, Sydney 2005
Peters M Laws of Business Cases, Statutes and Commentary 04/05, LPA, Sydney 2004
Ryan, Gibson, Rigby and Tamsitt Commercial Law in Principle (Law Book Co).
Sweeney and O’Reilly Law in Commerce (Butterworths).
Terry and Giugni, Business, Society and the Law, 3nd ed. TL 2002

Web references
Federal Parliament (bills, legislation, committees etc http://www.aph.gov.au
IP Australia (Trademarks, Copyright, Patents, Designs, etc) http://www.ipaustralia.gov.au
Australian Copyright Council website http://www.copyright.org.au
NSW Attorney General Dept website (links) http://www.lawlink.nsw.gov.au
Australasian Legal Information Institute http://www.austlii.edu.au
NSW Government http://www.nsw.gov.au
Tourism Law in China http://www.hotel-online.com/Neo/Trends/AsiaPacificJournal/July98_ChinaLaw.html
Global Codes of Ethics for Tourism http://www.gdrc.org/uem/eco-tour/principles.html
RISK MANAGEMENT MATERIALS

Prescribed text

Tourism Risk Management for the Asia Pacific Region: An Authorative Guide For Managing Crises And Disasters By Jeff Wilks & Stewart Moore (CRC for Sustainable Tourism)

(Please note: We are in the midst negotiating the price of this excellent report with the CRC. At present, it costs A$100 per copy. If we cannot negotiate a lower price, we will place two copies in Closed Reserve.)

Further Recommended Materials

There are a number of other texts which students may find useful:

Asian Disaster Preparedness Centre (ADPC), [Online] Available at: www.adpc.net
Queensland Dept. of Emergency Services A Guide To Disaster Risk Management In Queensland Aboriginal And Torres Strait Islander Communities, 2003
## COURSE CONTENT

<table>
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<tr>
<th>Class</th>
<th>Topic</th>
<th>Readings*</th>
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| Week 1  February 28 | Introduction to the Law  
Business Entities -- Agency Law                                       | 1-4, 5-6  |
| Week 2  March 7    | Contracts -- Booking Condition & Tour Brochures  
Advertising and Marketing Law                                         | 12,13,16  |
| Week 3  March 14  | Carrier Contracts -- Online Transactions  
Consumer complaints and compensation funds                             | 13,14,15  |
| Week 4  March 21  | Duties of Travel Agents and Operators (Torts)  
Travel and Commercial Insurance Law                                    | 7,8       |
|              | **Mid Session Exam**                                                 |           |
|              | **MID SESSION BREAK 25 March – 1 April**                             | **NO LECTURE** |
| Week 5  April 4   | Innkeepers Law – Bailment  
Liquor and Catering                                                     | 24, 21, 25,26 |
| Week 6  April 11  | Law regulating Travel Agents  
Law regulating booking & operating systems  
EU Standards                                                           | 31,34,39  |
| Week 7  April 18  | Regulation of Carriers and Operators  
International Tourism Law - Visa and Passports                          | 32,35,36 37 |
| Week 8  April 25  | **PUBLIC HOLIDAY – NO CLASS**                                         |           |
| Week 9  May 2     | Risk Management In the Tourism Context                               |           |
| Week 10 May 9    | Framework for Developing Plans & Responses                            |           |
| Week 11 May 16   | Case Study Exercise #1                                               |           |
| Week 12 May 23   | Case Study Exercise #2                                               |           |
| Week 13 May 30   | Case Study Exercise #3                                               |           |
| Week 14 June 6   | Student Conclusions and Recommendations                              |           |

* All law chapter references refer to ‘Tourism Law 2005’
EXTENSIONS AND LATE SUBMISSIONS

If you are having difficulty in completing work on time due to illness or extraordinary circumstances, you may request an extension through your lecturer with supporting documentation eg. medical certificate. Applications for extensions on or after the due date of the assessment items will not be considered. NO extensions will be given without documentary evidence of inability to meet deadlines. A deduction of 10% of the marks awarded per working day late applies if a piece of work is submitted late without approved extension.

GRADES
Grades will be based on a student’s aggregate mark for all assessment components according to UNSW guidelines available online at: https://my.unsw.edu.au/student/academiclife/assessment/AssessmentMainPage.html

EXPECTATIONS FOR THE PRESENTATION OF ASSIGNMENTS

Your assignments should meet the following expectations:

1. Answer the question set, keep to the topic and include all relevant issues.

2. Go beyond what other people have said on the topic. Express their ideas in your own words but add your own ideas and opinions. To do this you need to analyse and criticise ideas where appropriate and argue your point of view. Support your arguments and opinions with extensive referencing.

3. Show in the content of your essay that you have understood the material in the set text and that you have consulted a reasonable range of books and journals.

4. Be clear and concise in your expression paying particular attention to sentence structure. Put yourself in the reader’s position and ask ‘Is the meaning clear?’

5. Include an introduction in your opening paragraph (do not rewrite the question) and a conclusion in the final one.

6. Pay attention to the rules of writing in relation to paragraphing, punctuation, spelling, etc.

7. Use headings for sections of your essay where appropriate. (See the textbook for example.)

8. Generally avoid direct quotations except short ones used for a particular effect. It is better to express the idea in your own words.

9. Acknowledge the sources of both direct quotes, ideas of others and background information by the use of footnotes at the bottom of the page on which the quote, ideas or information occurs.

10. Attach a bibliography of the books and journal articles used in the assignment.
11. Adhere to the word limit. If an assignment turns out much longer than required, rewrite it concisely.


**PREPARATION AND SUBMISSION OF ESSAYS**

1. **Introduction**

   The rationale behind assigning essays is that written expression is an important part of organisational life. Essay writing is a useful way to test whether you understand the course material.

   Essay deadlines must be strictly adhered to. Students should expect marks to be lost for late assignments. Working towards deadlines is the norm in business.

   Essays should be approximately the suggested length but should be compact. This means that final drafts should involve cutting back, rather than padding, an earlier draft. Brevity is also a virtue of good managers. At least one copy should be made of the final draft copy. Keep a copy of your assignment in case the original is lost. The practice of making duplicate copies of submissions is a normal part of organisational life.

2. **Preparation**

   Quality essays cannot be written on a ‘one draft only’ basis. At a minimum, the essay writer should:

   - Start with a rough outline of topics that will be covered in the paper. Topics should be arranged in a logical sequence. At this stage the paper will look something like a ‘rough’ table of contents.
   - Expand each topic into sentences and paragraphs that include all the thoughts the writer can find or create related to the topic.
   - Pare down this rough draft eliminating unrequited statements, correcting errors in spelling and grammar, and adding the bibliography.
   - In many cases one or more additional redrafts will still be required as new material is found or thoughts are reorganised.

3. **Layout**

   Paper
   A4 size blank white paper should be used for typed essays.
   Assignments should be word-processed using double spacing.

   Margins
   The left-hand margin must be at least 3 cm wide to allow for marker’s comments.
Unless you specifically request otherwise the marker reserves the right to place ink comments in the margins.

Spacing
All assignments must be double spaced to allow for marker’s comments.

Pages
All pages must be numbered. Use only one side of the paper. Number each page. Fasten pages securely in the top left-hand corner with staples, do not use paper clips.

Table of contents and precis
A ‘table of contents’ page is optional. Similarly a precis is optional. If a precis is written, however, it should be concise.

2. **Bibliography**

A bibliography is compulsory. A bibliography includes only information on the sources which were used in writing your essay. Items which were read, but not used, should NOT be included.

Notice the elements of the bibliography that mud be clear to the reader:

1. Easy to find the author because of alphabetical order.
2. ‘Up-to-date’ references easily noticed because of date of publishing being separate.
3. Title of book or journal is distinct by being underlined or italicised.
4. Easy to distinguish Australian from English and American references.
5. Publisher is noted.

5. **Appendix**

Where an appendix is necessary it should be located as the last section of the essay (that is, after the bibliography). However, if there are a few (less than five) pages of tables or appendix-type material, they should be located within the main body of the essay in appropriate places. Try to avoid an appendix if possible.

6. **General**

‘I’ or ‘the Writer’

Both the use of ‘I’ (too personal) and ‘the writer’ are not recommended. It is much better to make the essay totally impersonal by avoiding both. This means that careful - and in some cases, considerable thinking must be put into some sentences to achieve impersonality. If a student regularly gets poor marks on essays, consult with the lecturer. Where students are having difficulty the lecturer will make comments on a rough draft of an essay if a student makes such a request and submits the rough draft a few weeks before the final draft is due. Abbreviations, Non-English Phrases and Slang
ANSWERING LEGAL PROBLEMS

Generally, legal writing should display competence in literary skills, legal knowledge and arguing ability.

1. Carefully read every word of the problem and identify the issues to be considered.

2. When answering the problem do not preface your answer with a general exposition of the law. You will not get marks for answering a question that was not asked. Answers should be direct and to the point.

3. You should assume the truth of the facts contained in the problem, if you make a presumption of additional facts to highlight a particular legal argument you should indicate in your answer the presumption made.

4. In answering questions that involve stating principles of law it is necessary to cite the relevant legislative provision or case reference to support the principle. When referring to cases you should give the full name of a case, for example, *Jack v Jill* with the citation (1910) 11 CLR 32 and the source from where you obtained the reference to the case contained in a footnote. When citing cases, the names of the parties should be in *italics* or *underlined*.

5. Do not just give the name of the case. Say what it stands for and the principles. Do NOT repeat the facts of an authority unless they are very similar to those in the problem you are considering.

6. Generally the problem is not going to be answered by reference to a single case. It is very important to consider the facts of the cases and how they are similar or different from those in the problem. If there are any differences you must consider whether these differences would be sufficient for the case to be distinguished from the one in your problem or whether in spite of the differences you believe the same principle would be applied in your problem and explain why. Your arguments must be balanced, discussing the authorities both for and against a particular view.

7. What is most important is that you should indicate that you are able to apply principles of law to the facts given and to draw conclusions. A method of helping you to do that is by using IRAC. I = issue, that is, identify the problem; R = rule, that is, rule/s of law which may be found in legislation, the cases or both; A = analysis, where the issues, rules, legislation and cases are discussed and applied to the facts of the problem; C – conclusion, that is, at least a tentative conclusion considering that the law is a dynamic thing and that it, at least in statutory form, may change tomorrow. You normally need to follow this formula (IRAC) several times throughout your answer to a problem situation.

Upon completion of your answer, read over both the question and answer to make sure you have answered the question asked and not some other question.

8. Logical writing, structure of the answer, expression and spelling will all be taken into account in marking answers to problems.
CRITICAL ANALYSIS

At various times during this course, you will be asked to critically analyse a case, or critically evaluate some other aspect of the course. The following brief points may assist you.

1. To critically analyse, or evaluate something, basically asks you to explicitly reveal the flaws, or shortcomings of a specific line of argument. Every argument, no matter how simple or complex contains flaws, or shortcomings. Critical analysis asks that you make explicit such flaws/shortcomings.

2. We will be using a variety of legal principals, theories and ethical considerations during the session. You will need to understand the interaction between different types of laws (state federal international, civil, criminal, etc) and to gain an insight into the subject matter.

ACADEMIC STANDARDS

As an undergraduate student you are expected to produce work to high academic standards. Written material must be presented well, be thoroughly researched, contain appropriate references, and demonstrate considerable thought and appreciation of the course matter. It is expected that you will read the texts and other literature thoroughly, think deeply and critically about what you read. It is vital that you do not confine your readings to the text only. Broad reading from various academic literature, as well as law journals will assist you in your studies. For information is available online at ::https://my.unsw.edu.au/student/academiclife/assessment/AcademicMisconductStudent Misconduct.html

PLAGIARISM

Plagiarism constitutes a serious academic misconduct. It is important that every student understands what the offence of plagiarism means. Often students do not realise that they are committing it. A plagiarist is one who takes for his/her own unacknowledged use the thoughts or writings of another person, claiming them as his/her own. Plagiarism is cheating, and is one of the most serious offences any writer can make.

The lecturer will recognise plagiarism when it occurs and you will lose marks if it is detected. UNSW expects its students to abide by accepted protocols in their studies and research which are designed to ensure the academic integrity and reputation of the UNSW. In particular students are required to:

• Acknowledge their use of another person’s work in essays and other written work;
• Not allow others to use their work without acknowledgments;
• Honestly report the findings of their study and research;
• Use only approved information and materials in examinations

Similarly, using or extracting another person’s concepts, experimental results or conclusions, summarising another person’s work or, where, there is collaborative preparatory work, submitting substantially the same final version of any material as another student constitutes plagiarism. Moreover, encouraging or assisting another person to commit plagiarism is a form of improper collusion and may attract the same penalties. Further information is available online at: http://www.lc.unsw.edu.au/onlib/plag.html

SPECIAL CONSIDERATION AND SUPPLEMENTARY ASSESSMENT

All applications for special consideration on medical grounds should be submitted to NewSouthQ in accordance with the UNSW rules. Students should be aware that a doctor’s certificate might not always provide sufficient detail to enable an assessment of the impact of an illness on a student’s performance. You should also be aware that the lodging of applications for special consideration does not guarantee that supplementary assessments will be granted.

In the event supplementary assessment is granted it is the responsibility of students who apply for special consideration to be available for the supplementary assessment during the specified period (holiday plans are not sufficient reason for non-availability). For further information on the grounds for the granting of special consideration, consult the UNSW Student Guide. Further information is available online at:


EDUCATION DEVELOPMENT UNIT

Additional learning support, tailored to the needs of FCE students, is available from the Education Development Unit (EDU) in the Faculty. The EDU offers a range of services for FCE students including:

• Academic skills workshops run throughout the session;
• Printed / on-line study skills resources e.g. referencing guide, report writing /exam preparation;
• A drop-in resource centre containing books and audio visual material that can be borrowed;
• A limited consultation service for students with individual or small group learning needs.

More information about the EDU services including on-line resources, workshop details and consultation request forms are available from the EDU website.

Contacts and location: EDU Location: Room 2039, Level 2 Quadrangle Building EDU Web: http://education.fce.unsw.edu.au
EDU services are free and confidential and are available to students of the Faculty of Commerce and Economics. In addition to the EDU services, the UNSW Learning Centre provides academic skills support services for students. The Learning Centre is located on Level 2 of the Library and can be contacted by Phone: 9385 3890 or through their website: http://www.lc.unsw.edu.au/.

Students experiencing problems of an academic or personal nature are encouraged to contact the Counselling Service at UNSW. This service is free and confidential and run by professional counsellors. The Counselling Service is located on Level 2, Quadrangle East Wing, and can be contact on 9385 5418.