

**CONSUMER PROTECTION
AND LIABILITY LAW
MODEL EXAM**



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IRAC method of completing exams

- Issues** - Outline the issues that you are going to discuss.
- Rules** - Define the legal rules that are relevant to the question.
- Application** - Apply the legal rules to the facts of the question (this is the hard part!).
- Conclusion** - Tie things up, usually in the form of an advice to your hypothetical client.

Always use your reading time wisely to **PLAN YOUR ANSWER** before writing. This is of utmost importance as it will help you clarify your thoughts and ensure that you avoid following desperate exam strategies that unprepared students commonly resort to, such as:

- i) 'the kitchen sink' i.e. spilling all of your knowledge that is vaguely related to the topic onto the exam paper and hoping for the best.
- ii) 'the garden path' i.e. going off on an irrelevant tangent

Remember that the **APPLICATION IS THE MOST IMPORTANT SECTION** of your answer and should take up the bulk of your time. The actual conclusions you reach are often superfluous. Rather, your marker will be most interested in *how you arrived* at your conclusion.

Question One

Two months ago, Sue Sneldon purchased and installed a new Japanese cooker from Maxwell Appliances Pty Ltd (**Maxwell**). Maxwell is a chain store selling household appliances. Maxwell directly import the Japanese cooker from Japanese Cuisine Pty Ltd in Tokyo, Japan. The Japanese cooker is a large commercial stove that is often used by restaurants and cafes. Sue, an enthusiastic cook intends to continue to give evening cookery classes in her home, using the new cooker. Over the last 10 years, Su built up an excellent clientele for her classes.

On Sue's birthday, her partner, Ronal Riviera decided to bake her a cake whilst she was out shopping. He prepared a chocolate cake, put it in the Japanese cooker and set the timer for one hour and went outside to lie by the pool. Half an hour later, Ronald heard the smoke detector go off. He rushed inside to see flames and smoke billowing from the cooker. Thinking the food is burning, Ronald grabbed the oven handle door. As the door opens, the flames intensify and Ronald flees the kitchen.....

Question Two

Krazy Komms Pty Ltd (**Krazy Komms**) is a leading Australian telecommunications company offering a full range of telecommunication products and services to its customers, including mobile phone and internet services. The ACCC are investigating Krazy Komms for possible contraventions of Part V of the *Trade Practices Act 1974* (Cth) (**TPA**). The complaints are based on the following conduct.

- (a) In the Winter Olympics 2010 a swimmer from Nigeria, Edward Beilk, participated in the 200m swim. Edward, who had never swum in a pool before the Winter Olympics, came a distant last in the event but impressed everyone with his determination to finish the event. The footage of Edward struggling towards the finish was shown extensively on Australian news.

In November 2010, Krazy Komms ran a television advertisement showing

the footage of Edward with a voiceover by a comedian saying, “Would you just look at that little fellow go! The reason I’m with Krazy Komms is because it has the same spirit of determination and will to succeed of that little guy! Doesn’t it make you want to be with Krazy Komms too?”

Edward, who has since immigrated to Brisbane, feels that Krazy Komms is exploiting his name. Edward thinks he is entitled to payment from Krazy Komms for the use of the footage.....

Question Three

Mary Moora, an elderly Greek lady with limited English, signed a number of documents that the Bulldozer Bank (**Bank**) put in front of her, the manager saying they were ‘routine papers that will help your granddaughter Esmeralda out of some trouble’. The documents actually included a guarantee of a loan being advanced by the Bank to Esmeralda and a mortgage over Mary’s house that was security for the loan.....



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