

Law in Commerce

Fourth Edition

BRENDAN SWEENEY | JENNIFER O'REILLY | ANDREW COLEMAN



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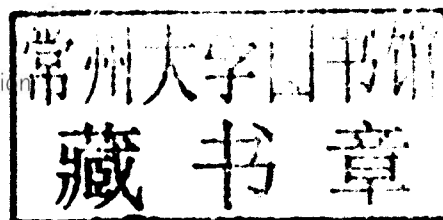
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Preface

Law in Commerce is designed for students studying business law as part of a business degree. Many business students will complete only one law subject. Consequently, the dilemma confronting the subject designer is determining what material to exclude. This book reflects the idiosyncratic choice of those who designed the basic commercial law subject at the Caulfield campus of Monash University. The book covers topics such as liability for defective goods and services, liability for misrepresentation and deception, contract liability and business structures. The laws discussed include negligence, contract, certain parts of the *Competition and Consumer Act* (formerly the *Trade Practices Act*), agency, partnership and aspects of corporations law, including directors' duties. Rather than attempt to cover every aspect of the relevant laws, the authors have attempted to highlight the more important commercial applications.

The book is structured to bring out some of the basic concepts of legal method, concepts which in a law school would warrant a separate subject. For example, the book begins with non-contractual liability in the production and distribution of goods and services. The chapter is designed not only to present the law of negligence and product liability, but also to demonstrate the common law in operation and contrast it with the statutory developments. A recent important statutory development has been the creation of the Australian Consumer Law (ACL). Numerous case summaries are presented to show the law in action. The text of many of the relevant statutory provisions has been reproduced on the basis that this is the best way to get students accustomed to interpreting statutes.

The fourth edition of *Law in Commerce* incorporates recent case law and legislative changes. Extensive changes have been required as a result of the ACL. These changes have materially affected the way in which product liability has been presented, although the basic concepts have remained largely the same. Whereas in the past consumers sued for breach of contract if the goods or services they acquired were faulty or unsuitable, their action will now be under the ACL. To address this situation a new chapter dealing with the ACL has been included.

To reinforce the relevance of each topic and the impact of law on commercial transactions, a relevant scenario (actual or hypothetical) has been placed at the beginning of chapters. This may also encourage a problem-based learning approach by readers.

We would like to acknowledge our gratitude to the many colleagues who have given valuable assistance in the preparation of this book, including Antoinette Sernia, Andrew Field, Abe Herzberg, Mathews Thomas, Michael McNamara, Peter Irwin, Robin Edwards, Tony Riordan and Wayne Gumley.

Finally, we would like to thank Mary-Jane Oliver for a brilliant job of editing and Carolyn Chamberlain and Kerry Paul of LexisNexis Butterworths for their invaluable assistance with this edition. We would also like to thank those who worked on the earlier editions. Without their efforts the book would not have been possible.

The law is current to October 2010 and includes the *Competition and Consumer Act 2010* (Cth).

Brendan Sweeny
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