



Australian Government

Department of Education, Employment and Workplace Relations

BSBMKG520A Manage compliance within the marketing legislative framework

Revision Number: 1

BSBMKG520A Manage compliance within the marketing legislative framework

Modification History

Not applicable.

Unit Descriptor

Unit descriptor	This unit describes the performance outcomes, skills and knowledge required to comply with the marketing legislative framework, and use this framework for competitive advantage. No licensing, legislative, regulatory or certification requirements apply to this unit at the time of endorsement.
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Application of the Unit

Application of the unit	This unit applies to individuals working in a marketing supervisory or management role within a marketing team. They may work in small, medium or large enterprises and in a variety of industries. Within their role they will be required to understand the legal environment in which marketing decisions are made in the organisation so that the organisation can avoid litigation, as well as use the legislative framework to assist marketing strategies. Individuals in these roles will need to competently discuss legal issues with specialists, but will not be making legal decisions independently.
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Licensing/Regulatory Information

Not applicable.

Pre-Requisites

Prerequisite units		

Employability Skills Information

Employability skills	This unit contains employability skills.
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Elements and Performance Criteria Pre-Content

Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge section and the range statement. Assessment of performance is to be consistent with the evidence guide.
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Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
1. Identify and interpret the legislative framework relating to marketing	1.1. Identify and locate current information about legislation as it relates to marketing decision making in the industry context 1.2. Identify codes of practice as they relate to marketing, and analyse their implications for the industry context 1.3. Analyse how legislation relating to marketing can protect and assist the trader, consumer and competitive process 1.4. Identify sources of information and advice about the legislative framework relating to marketing, and analyse them for usefulness in the industry context
2. Promote a culture of compliance with the legislative framework relating to marketing	2.1. Identify benefits and essential components of the legal compliance program relating to marketing, and how they fit with the whole of organisation compliance program 2.2. Participate in a marketing compliance audit and make recommendations to address identified gaps 2.3. Identify possible implications of non-compliance and use them to recommend changes to practice 2.4. Design a training program to educate staff on compliance as it relates to marketing
3. Recommend strategies to use the legislative framework relating to marketing for competitive advantage	3.1. Identify and analyse a range of methods to protect the organisation's products and services being marketed against intellectual property breaches 3.2. Make recommendations on strategies for protection of intellectual property rights and present to key stakeholders 3.3. Make recommendations to implement systems to identify intellectual property infringement by third parties 3.4. Identify remedies for own and other organisations' breaches of marketing legislation which could have an impact on the organisation 3.5. Access and effectively use others' intellectual property within legal guidelines for business advantage

Required Skills and Knowledge

REQUIRED SKILLS AND KNOWLEDGE

This section describes the skills and knowledge required for this unit.

Required skills

- analytical skills to interpret how legislation around marketing could impact on the business
- initiative and enterprise skills to identify opportunities to use the legislative framework for competitive advantage
- learning skills to design training programs that are suitable for a range of people with different learning styles
- literacy skills to produce complex reports and recommendations around compliance
- research skills to:
 - locate legislation and codes of practice relating to marketing
 - participate in a compliance audit
- technology skills to research the legislative framework
- verbal communication skills to:
 - negotiate with legal advisers
 - train staff on compliance

Required knowledge

- components of a compliance program and compliance audit
- different methods to protect intellectual property
- key provisions of legislation as it relates to marketing, including:
 - door-to-door sales legislation
 - legislation around intellectual property, including:
 - Copyright Act
 - Designs Act
 - passing off
 - Patents Act
 - state or territory Business Names Acts
 - Trade Marks Act
 - lotteries and gaming legislation
 - packaging and labelling legislation
 - sale of goods legislation
 - state or territory competition codes
 - state or territory Fair Trading Acts
 - Therapeutic Goods Act
 - trade measures legislation

REQUIRED SKILLS AND KNOWLEDGE

- key provisions of codes of practice relating to marketing, including:
 - Australian Association of National Advertisers Code of Ethics
 - Australian Direct Marketing Code of Practice
 - Australian Communications and Media Authority (ACMA) Australian eMarketing Code of Practice
 - Therapeutic Goods Advertising Code
 - individual organisation's marketing codes of practice
- sources of information and advice about marketing law

Evidence Guide

EVIDENCE GUIDE

The Evidence Guide provides advice on assessment and must be read in conjunction with the performance criteria, required skills and knowledge, range statement and the Assessment Guidelines for the Training Package.

Overview of assessment

Critical aspects for assessment and evidence required to demonstrate competency in this unit

Evidence of the following is essential:

- identification and application of legislation and codes of practice as they relate to marketing
- promotion of a culture of compliance with the legislative framework relating to marketing
- development of strategies to use the legislative framework for competitive advantage.

Context of and specific resources for assessment

Assessment must ensure access to:

- a workplace or simulated work environment
- relevant workplace documents
- research facilities.

Method of assessment

The following assessment methods are appropriate for this unit:

- review of portfolio of evidence of actions taken to promote a culture of compliance with the legislative framework relating to marketing
- oral or written questioning to assess understanding and application of the marketing legislative framework
- analysis of responses to case studies and scenarios around issues relating to marketing law
- demonstration of training for staff around marketing compliance issues
- review of report with recommendations for action for an organisation to ensure compliance with the marketing legislative framework.

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended.

Range Statement

RANGE STATEMENT

The range statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. Bold italicised wording, if used in the performance criteria, is detailed below. Essential operating conditions that may be present with training and assessment (depending on the work situation, needs of the candidate, accessibility of the item, and local industry and regional contexts) may also be included.

Legislation may include:	• door-to-door sales legislation • legislation around intellectual property, including: • Copyright Act • Designs Act • passing off • Patents Act • state or territory Business Names Acts • Trade Marks Act • lotteries and gaming legislation • packaging and labelling legislation • sale of goods legislation • state or territory competition codes • state or territory Fair Trading Acts • trade measures legislation.
Codes of practice could include:	• Australian Association of National Advertisers Code of Ethics • Australian Direct Marketing Code of Practice • Australian eMarketing Code of Practice • Therapeutic Goods Advertising Code • individual organisation's marketing codes of practice.
Sources of information and advice could include:	• Attorney-General's Department • Australian Communication and Media Authority • Australian Competition and Consumer Commission (ACCC) • Australian Legal Information Institute (AustLII) • Australian Marketing Institute (AMI) • Commonwealth of Australia Law (ComLaw) • IP Australia • lawyers specialising in intellectual property and marketing • the Marketing Association of Australia and New Zealand (MAANZ).

RANGE STATEMENT	
Benefits may include:	• opportunity to improve marketing performance and competitive advantage • incentive to make positive marketing decisions rather than reactive and risky decisions • assisting organisation to become a good corporate citizen • preventing damage to reputation • preventing consequences of breaking the law, such as penalties and costs.
Implications of non-compliance may include:	• loss of reputation • monetary and criminal penalties • cost of legal advice • liability for damages • diversion of resources away from core business activities • negative effect on staffing.
Methods to protect could include:	• copyright • patents • registration of designs • trade marks.
Third parties could include:	• competitors • suppliers.

Unit Sector(s)

Unit sector	
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Competency field

Competency field	Business development - marketing
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Co-requisite units

Co-requisite units		