What Marketing Professors Expect from Business Law

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MARKETING PROFESSORS have certain definite expectations regarding the legal knowledge which all marketing students need and deserve if they are to enter into their chosen professions. A student's lack of essential knowledge, in any field, is the severest form of criticism of those educators who were charged with the responsibility for their preparation.

Students frequently ask the author what he believes are the "most important" courses which they will ever study in a college or school of business administration. Contrary to the expectations of many, his answer is never his own subject area of *Marketing* or *Management*. This observer believes that the two most important course study areas for business majors are without question, *Accounting* and *Business Law*.

Professors of Business Law are fortunate that their subject is of such great interest to the typical, individual student. (By way of contrast, Accounting, many students would insist, can probably be the dullest subject which they will ever study.) But the student's interest in law represents a great danger as well as a blessing.

The initial interest of the student of Business Law is in terms of his own personal problems. What professor cannot recall the glint in his young students' eyes when they learn that certain contracts of minors are voidable. What professor has never been asked if his student cannot escape from the terms of his lease, or what he can do about the new shirt that got lost by his

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laundry? Self interest is a natural phenomenon. Without question, it directs a student's choice of study and the manner in which many of his courses are taught, and this is probably a good and natural thing. But in terms of the broader picture—the needs of life and commerce, and that includes Marketing, certain dangers are at least potentially present here.

The problems of the individual student, at the time he studies Business Law, are most emphatically not the legal business or marketing problems which will confront him in later life. This may in part account for the student's failure to receive, the student's failure to learn, or at the very least, the student's failure to remember certain essential and fundamental legal information. Regarding the expectations of marketing professors, the author would be more specific.

Marketing professors throughout the country continue to be amazed to discover the lack of student knowledge on such fundamental federal legislation as the Sherman Anti-Trust Act and its subsequent amendments. The lack of student understanding is most clearly demonstrated in courses at senior and graduate levels, where superior students still ask such fundamental questions as, "Can a manufacturer sell to one retailer, and refuse to sell to another across the street?" Or, "If price fixing is illegal, how come some items are fair traded?" To this observer, the thought of unleashing these students upon the unsuspecting business community is a frightening one.

One would hope that when the Chairman of the Federal Trade Commission, Paul Rand Dixon, recently spoke at Vanderbilt University Law School on the subject of consumer deception,[1] he found an audience which was considerably better equipped to understand where the activities of the Federal Trade Commission fit into the overall framework of business legislation than has evolved since 1890. He trusts that Law Students are aware of the general legal mechanism which influences Marketing today. Unfortunately, many Marketing students are not.

Retailing in America is still small business and many of tomorrow's executives of even larger department stores will be our graduates in Marketing and Business Administration. While the F.T.C. considered "bait-and-switch" techniques sufficiently prevalent to warrant issuance of informal guides for businessmen as far back as 1956, it is incredible to recognize that many of our students are even unaware of their existence! Mr. Dixon remarked, "The disturbing fact seems to be that too many merchants are disregarding these guides." It is even more disturbing to note that tomorrow's merchants, our students, may not even know such guides exist!

This Marketing professor believes that it is the obligation of the Business Law professor to equip his students with answers to interesting and often detailed questions on contracts, negotiable instruments, torts, frauds, taxation,

[1] "High Credit Costs and Deception—the Misinformed Consumer's Burdens"

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and the like. But further and more important, students must also gain insight into the overall legal framework which guides the commercial activities of business in America. This information can best be understood if it is presented in its historical or evolutionary context, for law without its environmental setting is frequently a recondite mystery. And yet, in an evolutionary context, Business Law takes on a meaning and a direction that provides a new perspective into the environment of the future. This story is potentially as interesting to the sincere student as are his immediate legal problems.

For example, antitrust legislation takes on new meaning when preceded by an undestanding of the reasons behind the decline of laissez faire policy in America. The Robinson Patman Act takes on new meaning when the circumstances requiring clarification of the Clayton Act and the Sherman Antitrust Act are considered. And if the Author's position is not clear, let us consider for a moment the 1936 decision of the U. S. Supreme Court in the Dearborn Case, when the "non-signer's clause of California's Fair Trade Law was held not to violate the due process clause of the Fourteenth Amendment to our Constitution. What student of Marketing or Law could appreciate or understand such a decision without understanding the circumstances of those social times? Without such information, and the knowledge of the evolution of state and federal legislation up to the present time, the Marketing student never will be prepared to function in the current legal business environment, and, further, he cannot be expected to grasp the significance of future legislative developments that will affect and control his business activities.

The topical outline of legal subject matter with which the Marketing student should ultimately be familiar is found in the *Journal of Marketing*, as published by the American Marketing Association. It includes: 1. Regulation of Monopolistic Methods; 2. Regulations of Product Characteristics; 3. Regulation of Price Competiiton; 4. Regulation of Channels of Distribution; and 5. Regulation of Unfair Competition.

These are areas of increasing concern to the future marketing executive and/or legal specialist. While one does not expect the Business Law professor to make his students experts in these areas, considerable emphasis is expected upon the evolution of and the current nature of the law as it relates to the problems within the everyday commercial world in which the marketing executive must make meaningful business decisions.

There may be a divided opinion on where the obligation lies to provide an insight into the laws which influence and increasingly direct commercial activities. Is this, for example, an obligation of Government professors who, increasingly, offer courses which overlap the content one might classify as "legal environment?" Do we in Marketing expect too much from Business Law? Is it *our* responsibility to explain fair trade laws, the legality of promotional allowances, price discriminations, exclusive franchise rights, brokerage

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allowances, unfar and receptive advertising practices, and the like?

Most Marketing professors do expect their students who have completed Business Law to be well grounded in such traditional subject areas as contracts, taxation, negotiable instruments, and the like, but in addition, they also expect these students to have a much broader understanding than they now possess of the history, evolution, and current status of federal and state legislation which relates directly to marketing activities.

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