



Deakin International Commercial Arbitration Moot 2024

Competition Rules

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PART ONE – TEAMS

1 Registration

- (1) Registration for the 2024 Deakin International Commercial Arbitration Moot (**‘the Competition’**) opens on **Monday, 3 June 2024 at 11:59PM, Melbourne Time (AEST)**.
- (2) Registration for the Competition closes on **Tuesday, 18 June 2024 at 11:59PM, Melbourne Time (AEST)**.
- (3) Registration will be confirmed on **Wednesday, 19 June 2024 at 11:59PM, Melbourne Time (AEST)**.
 - (a) There is a fee of **\$110 AUD per team** upon registration. This can be waived where exceptional circumstances are present and will be determined on a discretionary basis. The fee is refundable where a team withdraws before **Tuesday, 16 July 2024 at 11:59PM, Melbourne Time (AEST)**, or their registration is not confirmed.

2 Team Composition

- (1) Each team in the Competition will be composed of either two or three students – that is, no fewer than two, or no more than three students (**‘Team’**).
 - (a) If a Team is comprised of three students, only two members may speak in any round, with the third member acting as instructing solicitor.
 - (b) It is recommended that Teams are comprised of three students, so that the instructing solicitor may act as a speaker in case of unforeseen circumstances as per Rule 20.
- (2) Teams comprised of three students may rotate speaking roles between rounds.
- (3) Team members must be currently enrolled as full-time or part-time LLB or JD students at the date of the grand final of the Competition.
- (4) Teams may be comprised of former participants. However, a former participant who has competed as an oralist in the Semi-Finals or Grand Final of a previous Competition cannot be an oralist in future moots in the Competition.
- (5) Team members must be finalized by the time the Claimant Submission is submitted. This includes a contact email address for all participants and a postal address for correspondence including for certificates or awards.
 - (a) Only registered members of the Team may participate in the Competition. Failure to comply may result in penalties being applied as per Rule 19(3).

3 Number of Teams

- (1) The Competition will be limited to a total of 60 Teams.
 - (a) Preference will be given to Teams based on date and time of registration.

Competition Rules

- (b) Competition Conveners reserve the right to hold Team spots, at their own discretion, subject to special circumstances as indicated by a potential Team.
 - (c) The maximum number of Teams in the Competition may be increased subject to the discretion of the Competition Conveners.
- (2) Each university may register one **(1)** Primary Team and one **(1)** Reserve Team in the Competition.
- (a) The Primary Team, as indicated by each university, will be guaranteed to compete upon registration, subject to date of registration and the number of Teams already registered.
 - (b) The Reserve Team, as indicated by each university, *may* compete if:
 - (i) Subject to date of registration, the total number of primary Teams registered at the registration date is less than 56; or
 - (ii) The Primary Team of the same university is unable to compete or has withdrawn, prior to the beginning of the General Rounds; or
 - (iii) Subject to date of registration and prior to the Submission of the Claimant Submission, a different university has withdrawn their Primary Team, and has no Reserve Team.
 - (c) All Teams, including Reserve Teams who have been allocated a Team spot, will be provided with a confirmation of registration in accordance with Rule 1(3).
- (3) At the sole discretion of the Competition Conveners, universities may be permitted to register more than one Team.

4 Coaching and Assistance

- (1) Teams are permitted to have coaches, faculty advisors, and others who may provide general advice and feedback regarding advocacy and high-level argument structure. However, coaches, advisors and others must not conduct research or devise written or oral arguments for the team - the final product for both written and oral arguments must be the sole work of the Team.
- (2) Coaches are permitted to act as Arbitrators throughout the Competition in accordance with Rule 14.
- (3) During the Competition, neither coaches nor competitors may view moots other than those in which their team is competing.
 - (a) This rule does not apply to the Semi-Finals if the team is no longer competing in the Competition.
 - (b) This rule does not apply to the Grand Final.

5 Requests for Clarification

- (1) Teams may submit requests for clarification by **Tuesday, 16 July 2024 at 11:59PM, Melbourne Time (AEST)** to the Moot Coordinator via email at deakin-ica-moot@deakin.edu.au.

Competition Rules

- (2) No guarantee is made that all requests for clarification will be responded to, but any responses will be communicated to all Teams by **Tuesday, 23 July 2024 at 11:59PM, Melbourne Time (AEST)**.

PART TWO – WRITTEN SUBMISSIONS

6 Preamble

- (1) Teams will prepare Written Submissions for both the Claimant and the Respondent.
- (2) The Written Submissions will provide an outline of arguments and a list of cases and other sources relied upon.
- (3) Except where otherwise noted, the law applicable to the problem question is that which is in force on the day of the Competition.
 - (a) The applicable law is that which is in force at the time of the event or facts.
 - (b) Should the law alter between the date of the Written Submissions, and the date of the Competition, Teams must notify the Competition Convener by email detailing the nature and effect of the changes.
 - (c) The Competition Convener will at their absolute discretion determine what course of action will be taken including whether:
 - (i) Amended Submissions will be required, and, if so, whether extensions of time will be granted; or
 - (ii) To proceed as if the law had not altered; or
 - (iii) To proceed on any other basis or at all.
- (4) Teams shall be provided with their opposition's Written Submission in accordance with Rule 7(4).

7 Filing of Submissions

- (1) Written Submissions are to be filed electronically by attaching the documents in PDF format to an email to deakin-ica-moot@deakin.edu.au.
 - (a) Each Team must submit the Claimant Submission by **Tuesday, 6 August 2024 at 11:59PM, Melbourne Time (AEST)**; and
 - (b) Each Team must submit the Respondent Submission by **Wednesday, 14 August 2024 at 11:59PM, Melbourne Time (AEST)**.
- (2) An acknowledgement of receipt will be sent to Teams as soon as possible after receipt of Written Submissions.
- (3) Failure to comply with Written Submission deadlines may result in penalties in accordance with Rule 19 and disqualification for an award.
- (4) Submissions will be distributed via email to the opposing Teams in the General Rounds.

Competition Rules

- (a) Claimant Submission will be exchanged by **Wednesday, 7 August 2024 at 11:59PM, Melbourne Time (AEST)**; and
 - (b) Respondent Submission will be exchanged by **Thursday, 15 August 2024 at 11:59PM, Melbourne Time (AEST)**.
 - (c) If a Reserve Team has been substituted for a Primary Team of the same university, after the date of Submissions, in accordance with Rule 3(2)(b)(i), the Reserve Team may use the Primary Team's Written Submissions.
 - (d) Where there has been a change in the Moot Schedule in accordance with Rule 9(3), Teams will be provided with the opposing Teams Written Submissions as per Rule 9(3)(d).
- (5) Due to last minutes withdrawals by Team and schedule changes, Competition Convenors cannot guarantee that Teams will respond to the same Team in their Written Submissions and Oral Submissions.

8 Form of Submissions

- (1) Written Submissions must be clearly labelled with the Team's number (as assigned by the Competition Conveners).
 - (a) Written Submissions may contain the name of the University that the Team is representing.
- (2) Formatting requirements:
 - (a) The Written Submissions for the Claimant and the Respondent must each be a maximum of four (4) A4 pages. A cover page and Bibliography are not included in this total page count as per Rules 8(4) and 8(5).
 - (b) Must be typed in no less than 11-point Times New Roman, with line spacing of no less than 1.5 lines and with margins of no less than 2cm.
 - (c) Paragraphs must be numbered.
 - (d) Footnotes must be typed in no less than 10-point Times New Roman and may be single spaced.
- (3) Full citations must be given in footnotes, in conformity with the 4th edition of the Australian Guide to Legal Citation. For the avoidance of doubt, Teams may refer to legislation.
- (4) Teams may include a Bibliography of the resources referenced within their Written and Oral Submissions.
 - (a) If this is included, this Bibliography must be in conformity with the 4th edition of the Australian Guide to Legal Citation.
 - (b) If correctly formatted, this Bibliography will not count towards the four (4) page maximum length for Written Submissions.

Competition Rules

- (5) Teams may include a cover page with their Written Submissions. A cover page will not count towards the four (4) page maximum limit if it includes only text that serves to identify the Submissions (such as the Team number, and a “Claimant” or “Respondent” title).
- (6) Failure to comply with formatting requirements may result in disqualification for an award.

PART THREE – ORAL SUBMISSIONS

9 Rounds - Scheduling

- (1) Oral Submissions for the competition will commence on **Tuesday, 3 September 2024 at 9:00AM, Melbourne Time (AEST)** and conclude with the Grand Final at approximately **Tuesday, 10 September 2024 at 8:00PM, Melbourne Time (AEST)**.
 - (a) Oral Submissions for all Preliminary, Elimination, Quarter Final, Semi-Final, and Grand Final rounds will take place between **9:00AM and 8:00PM Melbourne Time (AEST) across Tuesday 3 September, Wednesday 4 September, Monday 9 September, and Tuesday 10 September 2024**. Teams must be available for the duration of this time.
 - (b) By agreeing to compete in the Competition, competitors agree to be available for the above times.
- (2) The Competition Convenors will provide Teams with a draft schedule by **Friday, 21 June 2024 at 11:59PM, Melbourne Time (AEST) ('Draft Schedule')**.
 - (a) The Draft Schedule is only an indication of the times each moot will be conducted.
 - (b) Time slots provided to Teams are only placeholders until the final schedule is released in accordance with Rule 9(3).
 - (c) The Draft Schedule is likely to be amended prior to the commencement of the Oral Rounds at the discretion of the Competition Convenors to accommodate for:
 - (i) Requests by Teams.
 - (ii) Judges' availability.
 - (iii) Technical capabilities.
 - (d) Teams are to provide the Competition Convenors with times they are unavailable by **Tuesday, 25 June 2024 at 11:59PM Melbourne Time (AEST) ('Unavailable Times')**.
 - (e) Competition Convenors will accommodate requests for schedule changes at their own discretion.
 - (f) If a Team has not indicated any times that they are unavailable, it will be presumed that the Team is available for the duration of the Competition in accordance with Rule 9(1)(b).
 - (g) The Competition Convenors reserve the right to change scheduled times in the Draft Schedule without consulting affected Teams.
- (3) A final schedule (**'Final Schedule'**) will be provided to all Teams by **Friday, 28 June 2024 at 11:59PM, Melbourne Time (AEST)**.
 - (a) Changes to the Final Schedule will only be made in exceptional circumstances determined at the discretion of the Competition Convenors.

Competition Rules

- (b) Requests for changes to the Final Schedule must be accompanied by a brief explanation of the reasons for the request.
 - (i) Appropriate reasons include, but are not limited to, clerkship interviews, compulsory assessments, international time zones, travel delays, and other unforeseeable events preventing the whole Team from competing.
 - (ii) Where a Teams has three members, the unavailability of one oralist is not a valid reason to request a schedule change to the Final Schedule. In these circumstances, it will be presumed the instructing solicitor will be able to participate on the absent oralists behalf.
- (c) The Competition Convenors must consult with Teams prior to changing scheduled times in the Final Schedule.
 - (i) If a Team has not provided the Competition Convenors with Unavailable Times, it will be presumed that those Teams can reschedule their assigned time slots.
 - (ii) Teams are not obligated to change their time slot provided in the Final Schedule.
 - (iii) A Team may volunteer to moot an additional round as a 'Volunteer Team' if a Team does not volunteer to reschedule.
 - (iv) The Competition Convenors cannot guarantee a request for change of the Final Schedule will be granted.
- (d) Teams will be provided with the opposing Team's Submission as soon as possible after the change in schedule.

10 Rounds – Competition Format

- (1) There will be two preliminary rounds that shall determine the composition of the finals. The Moot Schedule shall allow for each Team to moot both sides of the argument at least once and an equal number of times (to the extent that is reasonably possible).
 - (a) Where there is an unequal number of Teams, or a Team has withdrawn, and there is no available Reserve Team, a 'Volunteer Team' may elect to moot in three preliminary rounds.
 - (i) The additional (third) moot by the Volunteer Team in the preliminary rounds does not contribute towards the Volunteer Team's average score; or contribute to the individual Oralist's scores.
 - (ii) The Volunteer Team does not need to comprise of members from a single registered Team. The Volunteer Team can comprise of Team members from different Teams in the same universities or from different universities.
 - (b) A failure to moot both sides of the argument, at the fault of the Team, will disqualify a Team from qualifying for the elimination rounds.

Competition Rules

- (c) For the purposes of the Finals and Grand Final, Teams will swap sides of the argument from their previous moot.
 - (i) If Teams mooted the same side in their previous moot, determining which Team moots which side of the argument will be determined by the Teams ranking in the Preliminary Rounds. The Team with the higher overall ranking will argue for the Claimant, and the team with the lower overall ranking will argue for the Respondent.
- (2) If a Team consists of three members, one Team member only may act as a solicitor during each moot.
- (3) Team members may communicate with one another during the moot.
 - (a) If the Moot is conducted in a virtual format, electronic communication is permitted between the three competitors of the Team. Electronic communication with the Coach, or any other person, during Oral Submissions is not permitted.
 - (b) Teams found to be in breach of this Rule will be penalized as per Rule 19(3).
- (4) Teams are not bound by the arguments in their Written Submissions when presenting Oral Submissions.
- (5) The Tribunal shall base its determination on the presentation of the argument at the Arbitration.
- (6) The format of the Competition is arbitration. The speakers therefore shall be seated in all circumstances and refer to a tribunal member as Mr./Ms. Arbitrator and collectively as Members of the Tribunal.
- (7) The claimant shall be seated on the right-hand side from the Tribunal's perspective.
 - (a) Where the Competition is conducted in a virtual format, competitors must change their screen name to the following format 'First and Last name – University – Procedure or Merits.'
 - (b) In the Grand Final only, competitors shall change their screen name to 'First and Last Name – University'.

11 Procedure

- (1) Teams will receive the Written Submissions of their opponents by email in advance of the moot:
 - (a) For the Preliminary Rounds: see above at Rule 7(4).
 - (b) For Final rounds, including elimination rounds, at least 1 hour prior.
 - (c) These times may be subject to change at the discretion of the Competition Conveners.
- (2) The email by which opponent's Written Submissions were sent shall be proof of receipt and of the date of receipt and notice of those Written Submissions.
- (3) In each moot, each Team's Oral Submissions will be presented by two counsels.

Competition Rules

- (4) The order of speaking will be decided by the consent of both Teams, and in the absence of such consent, the Arbitrators.
- (5) Generally, the Team who submitted a claim or claims should speak first, followed by the Team who responds to the claim(s). Normally the Claimant would argue first before the Respondent is permitted to respond. However, if the Respondent has raised an objection to the jurisdiction of the arbitral tribunal or other such defense, the Respondent will typically be asked to present its arguments on the issue first before Claimant responds.
- (6) A typical procedural order is:
 - (a) Appearances by the First Speaker of each side.
 - (b) Oral Submissions on the first issue:
 - (i) Oral Submission delivered by the First Speaker for the Claimant.
 - (ii) Oral Submission delivered by First Speaker for the Respondent.
 - (iii) Rebuttal delivered by First Speaker for the Claimant. Sur-rebuttal delivered by First Speaker for the Respondent.
 - (c) Oral Submissions on the second issue:
 - (i) Oral Submission delivered by the Second Speaker for the Claimant.
 - (ii) Oral Submission delivered by the Second Speaker for the Respondent.
 - (iii) Rebuttal delivered by the Second Speaker for the Claimant.
 - (iv) Sur-rebuttal delivered by the Second Speaker for the Respondent.
- (7) For the purposes of Rule 11(6), Teams are not in breach of any rules if the speaking order is not strictly followed.
- (8) The Team who submitted a claim may decline to present a rebuttal, and the Team responding to a claim may decline to present a sur-rebuttal. If no rebuttal is presented, no sur-rebuttal may be presented. No new arguments may be presented in the rebuttal or sur-rebuttal unless in reply to an argument raised in the Respondent's Oral Submissions or in the Claimant's rebuttal, respectively.
- (9) The presentation of a summary of the facts within Oral Submission is not compulsory and is a matter for the Teams and Arbitrators.

12 Bench Books

- (1) A Team is permitted to use 'Bench Books' or 'bundles of authority' for their own purpose during the presentation of oral arguments.

Competition Rules

- (2) Teams are **not** to provide, show, supply, distribute, present or make available 'Bench Books' or any form of documentation, whether electronic or physical, to the Arbitrators or to the opposing Teams, at any time prior to, during or after Oral Submissions.
 - (a) Where the competition is conducted in a virtual format, screen-sharing or any remote collaboration application, is prohibited for the purpose of Rule 12(2).
 - (b) 'Any form of documentation' includes, but is not limited to the Moot Problem, Moot Rules, Parties' Submissions, and procedural rules, whether physical or electronic.
- (3) All relevant authorities and arguments should be contained within each Team's Written Submissions. However, there is no penalty for deviation from Written Submissions, in accordance with Rule 10(5).

13 Timing

- (1) Each Team is allocated 30 minutes to make Oral Submissions.
 - (a) An optional rebuttal and sur-rebuttal should be included within the 30 minutes allocated for each Team.
 - (b) Each speaker must speak for a minimum of 10 minutes and for up to a maximum of 20 minutes, subject to a maximum of 30 minutes per Team.
 - (c) Where Teams wish to allocate additional time to one of their speakers and less time to their other speaker (beyond an even 15-minute division of time per speaker), this must be discussed with opposing counsel prior to the commencement of Oral Submissions.
- (2) When giving appearances, the First Speaker for each Team should state:
 - (a) The names of that Team's speakers; and
 - (b) The division of issues in dispute; and
 - (c) The division of time for principal Oral Submissions; and
 - (d) The reservation of time (if any) for rebuttal or sur-rebuttal.
- (3) Arbitrators may extend time if they ask questions at the request of the parties. More questions should result in more leniency with time.
- (4) Arbitrators, at their discretion, may grant an extension of time of up to one minute to each speaker. As far as possible, Arbitrators will seek to ensure that any extensions are granted equally between the Teams.
 - (a) Subject to the Arbitrator's discretion, Arbitrators may impose a point penalty for a Team, exceeding their allocated time.
 - (b) Teams are not to exceed a maximum of 32 minutes during Oral Submissions.

Competition Rules

- (5) Teams and Arbitrators have been allocated **90 minutes** to fully complete the round. An approximate division of this time is as follows:
- (a) Approximately **5 minutes** for Arbitrator introductions, resolving technical difficulties, and applying discretion to the Competition Format as per Rules 11(9) and 13(1)(c).
 - (b) Approximately **5 minutes** for Appearances from both Teams.
 - (c) Approximately **60 minutes** for Oral Submissions for both Teams.
 - (d) Approximately **20 minutes** for Arbitrators to discuss, assess, mark, and provide feedback to the Teams prior to the conclusion of the round.
- (6) The allocation of time discussed within Rule 13(5)(a)-(d) is intended to be an illustrative example. Teams will not be considered by the Competition Conveners to be in breach of the Competition Rules for not strictly adhering to Rule 13(5).
- (7) If a connection is lost due to a technical issue, the Teams and Arbitrators should try to re-establish the connection. If it is impossible for technical reasons to complete the argument within the allocated **90 minutes**, the presiding arbitrator may extend the time allowed by the Competition Rules for up to 30 minutes of extra time.
- (a) This extra time is only meant to address technical issues and not to extend the oral hearing for the purpose of extending the time for presenting arguments.
- (8) Penalties apply if a Team is late to their oral hearing, as per Rule 19(3).

PART FOUR – JUDGING AND SCORING

14 Arbitrators

- (1) For the purposes of these Rules, anything that which is not considered by these Rules:
 - (a) The Arbitrators shall have full discretion if the matter is raised during a moot round.
 - (b) The Competition Conveners shall have full discretion.
- (2) There should be at least two Arbitrators for all moots. The Semi-Finals and Grand Final will be arbitrated by at least three Arbitrators.
- (3) Arbitrators will be any one or more of:
 - (a) Judges currently serving of an Australian Court.
 - (b) Retired judges of an Australian Court.
 - (c) Barristers or solicitors, or other legal practitioners.
 - (d) Legal academics; or
 - (e) Other law graduates with significant experience in judging and/or participating in mooting competitions.
- (4) Arbitrators must inform the Competition Conveners of any potential conflict of interest as soon as possible before the commencement of Oral Submissions.
- (5) Coaches are permitted to arbitrate Oral Submissions provided:
 - (a) They meet the criteria rule described in Rule 14(3).
 - (b) They are not a current law student.
 - (c) They inform the Competition Conveners of any conflicts of interest prior to the commencement of the Round; and
 - (d) They do not arbitrate any Team from their University.
- (6) Bench notes will be provided to all Arbitrators, and Teams, prior to the commencement of the oral rounds.

15 Scoring

- (1) The guidelines for scoring shall be found in **Annexure C**.
- (2) The individual scores given by an Arbitrator is entirely within the discretion of the Arbitrator.

Competition Rules

- (a) Each Arbitrator will score the oralists on a scale of 50-100.
- (3) The total score of two oralists will constitute the Team score for that round. The individual score received by each oralist will contribute to their overall individual score for the general rounds.
- (4) If a moot has proceeded with only one Arbitrator, the Competition Conveners may at their own discretion:
 - (a) Double the score of the single Arbitrator; or
 - (b) Determine an appropriate score.
- (5) Arbitrators are to not disclose the scores of the Competitors during the feedback session.
- (6) Any penalties applied by Arbitrators are to be included in the Team's total score.

PART FIVE – AWARDS

Aside from the awards for the Competition Winners, there shall be the following awards:

16 Best Written Submission

- (1) There will be an award for the best Claimant and best Respondent Written Submissions.
- (2) These awards will be based on the Raw Scores for the Written Submissions, judged prior to the commencement of the oral rounds.
- (3) If Written Submissions are awarded best Written Submissions, Teams will be deemed to have granted conveners permission to publish their winning Written Submissions on the Deakin ICA Moot website.

17 Best Speaker – Preliminary Rounds

- (1) There will be an award for the Best Speaker in the preliminary rounds.
- (2) Candidates for this award must have acted as counsel at least twice in the preliminary rounds.
- (3) The award will be awarded to the competitor with the highest average speaker score for their best two moots.
- (4) In the result of an unresolvable tie, two or more competitors will share the prize.
- (5) At the discretion of the Competition Conveners, an award of runner-up may be given.

18 Best Speaker – Grand Final

- (1) There will be an award for the Best Speaker in the Grand Final, as arbitrated by the Grand Final Arbitrators.
- (2) In the event of a tie, the Competitor with the highest average score for all their rounds shall receive the award.

PART SIX – PENALTIES, EMERGENCIES & APPEALS

19 Penalties

- (1) **Written Submissions:** Penalties applied to Written Submissions for failure to comply with the applicable Rules:
 - (a) Written Submissions may be disqualified from receiving an award at the discretion of the Competition Conveners.
 - (b) Written Submissions for the Preliminary Rounds that are submitted up to 6 hours late will incur a 5% reduction in their Written Submissions Raw Score.
 - (c) Written Submissions for the Preliminary Rounds that are submitted between 6 and 24 hours late will incur a 10% reduction in their Written Submissions Raw Score.
 - (d) Written Submissions for the preliminary rounds that are submitted over 24 hours late will incur at least a 10% reduction in their Written Submissions Raw Score and may receive a greater reduction as deemed appropriate by the Competition Conveners in either Written Submission Raw Score, or Oral Submission scores.
 - (i) If no communication has been received from the Team regarding a late submission, Teams who do not submit a written memorandum within 24 hours will be disqualified from the competition.
- (2) **Late:** For each round, each of the Semi-Finals and the Grand Final, a Team member shall arrive and be ready to compete at the scheduled time for that round.
 - (a) Penalties apply if a Team, or individual speaker, is late, including:
 - (i) Reduction in allocated time for Oral Submissions (being the amount of time the Team, or individual, was late distributed between the two speakers of the late Team).
 - (ii) To avoid any disadvantage to the opposing side, the late Team, or individual, is to be penalized one (1) point per speaker per Arbitrator to a total of four (4) points per Team; and
 - (iii) If the reduction in time results in the late Team failing to complete their Oral Submissions, the opposing Team is not to be penalized for responding to arguments not raised by the late Team.
 - (b) No further point deductions or penalties are to be applied by Arbitrators.
- (3) **Breach of Moot Rules:** Point penalties may be applied for breaching any rule in the Moot Rules, at the discretion of the Competition Conveners.
 - (a) Teams reserve the right to inform the Competition Conveners of any breach of the Moot Rules in accordance with rule 20(1).

Competition Rules

- (b) Teams who inform the Competition Convenors of a breach of the Moot Rules will not be informed of the outcome of any penalties applied unless such penalties directly affect the Team.
- (4) **Other:** The Competition Convenors reserve the right to apply additional penalties as may be appropriate.
 - (a) The Competition Convenors shall inform the relevant Team of any 'Other' penalties that may be applied.
 - (b) The Competition Convenors may request from the relevant Team an explanation of the circumstances prior to applying the penalty.

20 Unforeseen Circumstances

- (1) **'Unforeseen Circumstances'** refer to circumstances which prevent a Competitor from participating in a Round of the Competition. These include, but are not limited to, illness, accident, or emergency situations.
- (2) Where a Competitor who is an Oralist is unable to participate in a Round due to Unforeseen Circumstances, the Instructing Solicitor for that Team should be prepared to take their place in presenting Oral Submissions.
 - (a) If the Instructing Solicitor for the Team is not available due to Unforeseen Circumstances, the Team should proceed with both Oralists.
- (3) Where a Team does not have an Instructing Solicitor and one Oralist is unavailable due to Unforeseen Circumstances, or two out of three possible Team members are both unavailable due to Unforeseen Circumstances:
 - (a) The remaining Team member should present both the First and Second Speaker's Oral Submissions.
 - (b) In the event of Rule 20(3)(a), the remaining Team member's allocated mark for Best Speaker will be determined by the better of their two Oral Submissions.
- (4) Failure to adhere to Rules 20(2) and 20(3) may result in both a point penalty being applied under Rule 19(3) and may result in a disqualification from Elimination Rounds of the Competition due to failing to argue both sides of the argument at the fault of the Team as per Rule 10(1)(b).
- (5) Where the Opposing Team has failed to appear or present Oral Submissions due to Unforeseen Circumstances, the remaining Team will present their oral submissions without rebuttal or sur-rebuttal.
 - (a) The remaining Team is still subject to the maximum of 30 minutes per team, with a discretionary additional minute per speaker.
 - (b) The remaining Team will not be subject to a point penalty due to an Opposing Team's inability to participate in the Competition due to Unforeseen Circumstances.

21 Appeals

- (1) Competitors may inform the Competition Conveners of any suspected breaches of the Competition Rules (**'Complaint'**). All complaints will remain confidential unless disclosure is required.
 - (a) A breach of a rule in the Competition Rules is not left to the discretion of the Arbitrators.
 - (b) Teams are obligated to inform the Arbitrators if conduct occurs which is in breach of the Competition Rules. Teams must also, where possible, inform the Arbitrator of the relevant Rule.
 - (c) Where an Arbitrator, upon being made aware of the breach of the Competition Rules, has utilized their discretion to dismiss or allow a breach of the Competition Rules, the Teams are further obligated to inform the Competition Conveners of this fact.
 - (d) Teams are not to benefit from the Arbitrator's unfamiliarity of the provisions of the Competition Rules. It is the Teams duty to abide by the Competition Rules.
 - (e) Silence on behalf of the opposing Team does not indicate consent to the breach.
- (2) Further, Arbitrators may refer suspected breaches of the Rules to the Competition Conveners.
- (3) The Competition Conveners may request (**'Request'**) from the Team in breach of the Rules, reasons for their breach (**'Reasons'**).
 - (a) The Request must be in written format and include an explanation of the Complaint and the penalty to be applied.
 - (b) Reasons are to be provided in written format and must not exceed a total of 500 words.
 - (c) Reasons must be provided to the Competition Conveners within 2 hours after the Request of made. If Reasons are not provided, the Competition Conveners are permitted to presume the Team agrees with the application of penalties in the Request.
 - (d) The team can only address those matters relevant to the Complaint and their Reasons.
 - (i) If matters are addressed outside those matters relevant to the Complaint, the Competition Conveners are not required to address these matters unless a separate complaint is made.
 - (ii) The existence of other matters unrelated to the Complaint has no bearing on the outcome of the Complaint.
 - (e) After Reasons have been received, the final decision is left to the Competition Conveners and no further appeals are available.
- (4) The Competition Conveners may, after investigating the matter and obtaining Reasons, apply a penalty in the form of a reduction in Raw Scores for a breach of the Rules, or, where the breach is sufficiently serious, disqualification, at their discretion.

Competition Rules

- (5) Competition Conveners retain the ultimate discretion regarding the notice, determination, and enforcement of any penalty arising from a breach of the Competition Rules.
 - (a) This discretion includes the ability to classify a breach of the Competition Rules as being minimal or merely technical, and thus not attract a penalty.
- (6) Any dispute in relation to a breach or alleged breach of these rules will be finally and conclusively resolved by the Competition Conveners, at their discretion, acting unanimously. All disputes should be described in detail by the Teams raising the dispute and emailed to the conveners at deakin-ica-moot@deakin.edu.au

22 Amendment of the Rules

- (1) The Competition Conveners may amend these rules unilaterally at any point before the commencement of the Competition (Oral Submissions).
- (2) Amended rules will be communicated to the Teams after registration has been confirmed.

PART SEVEN – COMPETITION DOCUMENTS

23 Documents

- (1) All Competition documents received by Competitors, including the problem question, clarifications, and bench notes, must not be distributed, reused, or adapted after the Competition.
- (2) The copyright in the problem question, clarifications, and bench notes remain with its authors.
 - (a) Anyone may seek the authors' permission to distribute, reuse, or adapt the problem question, clarification, and bench notes.
- (3) The copyright in all other documents is in the Deakin Law School.

PART EIGHT – Virtual Moot

24 Form

- (1) Where the Competition is conducted via an online video conferencing platform:
 - (a) The Competition Rules are to be interpreted as applying equally to a virtual moot and physical moot.
 - (b) To ensure consistency and fairness, the Competition Conveners reserve the right to require all Competitors to participate on their own electronic device.
- (2) Each moot will have a Competition Convener present to ‘host’ the moot (**‘Host’**).
 - (a) The Host will introduce the Arbitrators and the Teams.
 - (b) Any technical issues or difficulties are to be communicated to the Host; and
 - (c) The Host will control breakout rooms to allow for Arbitrators to score the Teams before feedback is delivered.
- (3) All moots will be scheduled by the Host.
 - (a) The Host will send invitations via email to each competitor in each Team and their Coach.
 - (b) Each Team must provide the Moot Coordinator with a minimum of two (2) email addresses up to a maximum of four (4) email addresses for the general rounds.

25 Technical Difficulties

- (1) Teams will be provided 15 minutes prior to the commencement of the first round each day to ensure there is no connectivity or technical difficulties.
- (2) It is the Team’s responsibility to pre-empt and prevent any technical difficulties prior to the commencement of their oral round. This includes ensuring each competitor has a:
 - (a) Secure network connection.
 - (b) Working device to conduct to moot on.
 - (c) Working microphone and camera; and
 - (d) Second device, such as a mobile phone or second computer to conduct the moot on.
- (3) The Competition Conveners will attempt to prevent any technical difficulties from inhibiting the conduct of the Competition. If there are any technical difficulties on the part of the Competition Conveners, the Teams will not be subject to any penalties.

Competition Rules

- (4) Teams are encouraged to utilize the most stable and secure internet connection feasibly available to them.
 - (a) In the absence of a stable internet connection to establish appearances, Teams may opt or be requested to utilize a 'Dial In' feature and appear via Phone Call or other means.

26 Scoring

- (1) Teams must be given a full opportunity to present their case and must not be unfairly penalized for technical difficulties.
 - (a) Arbitrators may, at their discretion, grant up to **30 minutes** of additional time to allow Teams to present their arguments.
 - (b) Scoring is left to the discretion of the Arbitrators and connection issues will not give rise to a ground of appeal.

ANNEXURE A – Score Sheet

Each Arbitrator is expected to make an individual decision as to the score to be awarded. Nevertheless, a widely divergent score, whether higher or lower than the others, raises questions as to the criteria used by the Arbitrator in question. As such Arbitrators are encouraged to confer with a view to having scores that are within the same band (50 – 60 = needs improvement); (61-70 = Acceptable); (71 -70 = good); (80 - 90 = very good); (91 - 100 =excellent) or otherwise generally within 10 marks.

Team No. () Claimant/Respondent

Element	Counsel 1 - NAME/INITIALS OF COUNSEL:	Counsel 2 – NAME/INITIALS OF COUNSEL:
Clarity of the structure of presentation and adherence to time. (25)	/25	/25
Speaking abilities (variation of tone, pauses etc.); Advocacy and persuasion abilities, adherence formal professional etiquette (25)	/25	/25
Use of facts and depth of legal argument (25)	/25	/25
Capacity to answer questions / rebut or pre-empt the other side’s arguments (25)	/25	/25
TOTAL SCORE		

* For the purposes of individual speaker awards, please indicate the name of each speaker

ANNEXURE B – ARBITRATOR’S ADDITIONAL GUIDELINES

- (1) The format of the Competition is arbitration. The speakers should therefore be seated in all circumstances and refer to a Tribunal Member as Mr. or Ms. Arbitrator, and collectively as Members of the Tribunal.
 - (a) The Claimant shall be seated at the right-hand side from the Tribunal’s perspective.
- (2) A Team may consist of either two or three members. Only two members may speak during a round, with the third acting as an Instructing Solicitor.
- (3) Each Competition Round will be comprised of **90 minutes**. This allocated time includes introductions, appearances, Oral Submissions from both parties, questions from the Tribunal, the deliberation of scores between Arbitrators, and the provision of feedback to both teams.
 - (a) Each Team has 30 minutes to make Oral Submissions. This includes the time reserved for rebuttals and sur-rebuttals. However, each speaker must speak for at least **10 minutes**.
 - (b) Arbitrators may grant up to **1 minute** of extra time per speaker to accommodate questions.
 - (c) In the event of Technical Difficulties, Arbitrators may grant up to **30 minutes** of time solely to resolve the technological issue. No further time beyond the agreed 30 minutes (with two discretionary additional minutes) can be provided to the parties regarding Oral Submissions.
- (4) Teams have drafted written outlines of arguments, a list of cases, and other sources which they will be relying upon (**‘Written Submissions’**). These Written Submissions have been provided to the other team, and to the Arbitrators. Written Submissions are not to be marked for the purposes of Oral Submissions.
- (5) No draws are to be awarded. There must always be one team that wins.
- (6) For the purpose of the Preliminary Rounds, Arbitrators are **not to reveal the scores of the teams or indicate what team has won that round**. For the Semi-Final round, the Arbitrators may reveal who has won that round.
- (7) Arbitrators may provide feedback to Competitors at the conclusion of the Round, so long as this feedback does not provide a clear indication of which team had won that Round.
- (8) For the purpose of this Competition, anything which is not considered by the Competition Rules is at the discretion of the Arbitrators during the Moot Round.

ANNEXURE C – MARKING GUIDELINES

In order to maintain consistency between individual scores given by Arbitrators, Arbitrators are encouraged to carefully consider bands of scores to avoid unfair discrepancies between different moots.

Below is a general description of where individual speakers should be scored:

First Band: Excellent – 91-100 (Grand Final Quality)

- Counsel is confident, clearly articulates arguments, appropriately paced, professional and demonstrates a clear understanding of the factual scenario and the arguments.
- Rarely uses notes and a script and maintains eye contact.
- Easily navigates through facts and confidently uses them to support argument.
- Can clearly articulate the application of the applicable rules and laws to the arbitration and the relationship with the legal issue before the tribunal. Can also articulate and demonstrate the hierarchy of applicable rules and laws.
- Clearly prepared by the substantial use of legal cases and scholarly authority to support arguments but it also trustworthy in that they use authority that does not support their argument.
- If Claimant, anticipates Respondent's arguments acknowledging strengths and weaknesses of own argument. If Respondent, clearly responds to Claimant's arguments and also recognizes strengths and weaknesses of own argument.
- Demonstrates ease in responding to questions. Can easily deviate from line of argument in response to a question and take the Arbitrator back to line of argument without being prompted. Can also use question to their advantage.
- Aware of their timing and can adjust timing according to questions from Arbitrators.

Second Band: Very Good – 81-90 (Semi-Final Quality)

- Counsel is confident, appropriately paced, professional, understands arguments and factual scenario.
- Requires some assistance of notes but mainly maintains eye-contact.
- Able to navigate around facts in support of argument.
- Can articulate application of the applicable rules and laws to the arbitration and the relationship with the legal issue before the tribunal. Can also articulate the hierarchy of applicable rules and laws.
- Uses cases and scholarly authority to support most of their arguments. Identifies the existence of authority that does not support their case when anticipating other sides arguments,
- If Claimant, anticipates Respondent's arguments acknowledging strengths and weaknesses of own argument. If Respondent, responds to Claimant's arguments and also recognizes strengths and weaknesses of own argument.
- Able to answer questions by Arbitrators and continue with argument without being prompted.
- Aware of their timing and can adjust timing according to questions from Arbitrators.

Competition Rules

Third Band: Good – 71-80

- Counsel is confident, appropriately paced, professional in the delivery of their argument.
- Understands their arguments but mostly relies on notes to make Submissions.
- Identify relevant facts.
- Can identify the applicable rules or laws but may not fully understand how the rules apply to the legal issue or operate within arbitration processes. Unable to articulate the relevance of hierarchy of applicable laws and rules.
- Uses only cases to support their argument OR uses limited cases and limited scholarly authority.
- As Claimant, does not anticipate Respondent's argument or any authority that Respondent would rely on. As Respondent, limited responsiveness to Claimant's Arguments.
- Not particularly confident in answering Arbitrator's questions, but able to give acceptable responses. May require prompting to proceed with argument.

Fourth Band: Acceptable – 61-70

- Counsel appears slightly unprepared and unable to clearly articulate arguments without script or notes.
- Still remains professional but struggles to maintain eye contact.
- Can identify the applicable laws and rules from the legal issue but is unable to properly articulate how the rules relate to the legal issue.
- Uses very limited authority to support argument.
- As Claimant, does not anticipate Respondent's argument or any authority that Respondent would rely on. As Respondent, limited responsiveness to Claimant's Arguments.
- Struggles to answer questions of Arbitrators, may not understand the question. Generally, does not give proper response or repeat their argument.

Fifth Band: Needs Improvement – 50-60

- Counsel is unprepared, maintains professionalism but does not fully understand arguments.
- Requires notes to make Submissions.
- Doesn't understand identify or understand applicable laws and rules and how they apply.
- Uses very limited to no authority to support arguments.
- As Claimant, does not anticipate Respondent's argument or any authority that Respondent would rely on. As Respondent, does not respond to or recognize Claimant's Arguments.
- Unable to answer questions. Doesn't understand what the Arbitrator is asking. Will just read scripted answers or return to argument without responding.

Competition Rules

Organization and Preparation

Does counsel:

- introduce himself or herself and co-counsel.
- state whom he or she is representing.
- introduce the issues and relevant facts clearly.
- have a strong opening.
- present the arguments in an effective sequence.
- present a persuasive and generalized conclusion.

Is counsel:

- clearly prepared and familiar with the authorities on which his or her arguments rely?
- If rebuttal is used, is it used effectively?

Knowledge of the facts and the law

Does counsel:

- know the facts and the relevant law thoroughly?

Is counsel:

- able to relate the facts to the law to make a strong case for his or her client?

Presentation

Is counsel's presentation:

- appropriately paced, free of poor mannerisms and, loud enough?

Does counsel:

- use inflection to avoid monotone delivery,
- make eye contact with the Arbitrators and
- balance due deference with a forceful and professional argument?

Is counsel:

- poised and tactful under pressure?
- convincing and persuasive, regardless of the merits of the case?

Handling Questions

Does counsel:

- answer questions directly?
- use the opportunity to turn the question to his or her client's advantage?