

ANGLAIS

LANGUES
APPLIQUÉES

Théorie
Civilisation
Actualité

Internet
Exercices
Lexique

Économie Gestion Droit AES

Licence et Master

Leslie Thompson
Jean-Toussaint Pindi
Stephanie Amar-Flood

4^e édition

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ANGLAIS APPLIQUÉ

Économie, Gestion, Droit, AES

Licence et Master

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INTRODUCTION

Anglais appliqué 1, quatrième édition, s'inscrit dans la tradition des ouvrages de la collection Langues appliquées, dont le but est de fournir aux professeurs d'anglais de spécialité et aux étudiants spécialistes d'autres disciplines un outil de travail structurant leurs séances de travaux dirigés.

Cette nouvelle édition, qui a été très substantiellement renouvelée, s'adresse principalement aux étudiants inscrits en licence et en master de sciences économiques, de droit, de gestion et d'AES. Elle s'adresse aussi aux étudiants suivant les enseignements des doubles filières Gestion-Droit ou Gestion-Cinéma, et peut également servir de support à l'enseignement de l'anglais dans les écoles de commerce, la filière Langues étrangères appliquées (LEA), certaines sections d'IUT et de BTS, et en formation continue.

L'ouvrage présente l'anglais tel qu'il est utilisé dans les trois disciplines majeures, que sont les sciences économiques, les sciences juridiques et les sciences du management. Un nouveau champ d'application de ces disciplines, l'industrie cinématographique, trouve désormais sa place dans la présente édition, où il est traité sous ses aspects économique, commercial et juridique.

Anglais appliqué 1 est divisé en trois parties, *Economics*, *Management* et *Law*, chacune comportant dix chapitres.

La première partie, *Economics*, aborde le protectionnisme et le développement sous l'angle historique; la croissance et l'emploi, par le biais de l'économie collaborative; l'échange, en partant des monnaies digitales. Les chapitres consacrés aux marchés boursiers, aux organisations syndicales et à la sécurité sociale, repris de l'édition précédente, ont été actualisés. La protection de l'environnement et les enjeux du développement durable complètent la thématique abordée ici.

La deuxième partie est consacrée aux thèmes du *Management*. Les chapitres concernant la création d'entreprise, les fusions et acquisitions et les sociétés coopératives de la précédente édition y sont développés. Les nouveaux chapitres traitent des entreprises multinationales, des plateformes digitales et des formes de consommation collaborative, ainsi que des stratégies de vente et de satisfaction de la clientèle. Les différentes modalités de distribution de films, de programmes et de séries télévisés constituent les autres sujets abordés dans cette partie de l'ouvrage.

La troisième partie, *Law*, a été renouvelée intégralement. Certains chapitres abordent les fondements du droit, les droits fondamentaux et des questions constitutionnelles; d'autres

portent sur des sujets relevant du droit des affaires, tels que la personnalité morale et la fraude fiscale. Des questions relevant du droit de la concurrence, du droit du travail et du droit de la presse sont également traitées. La propriété intellectuelle dans le domaine du septième art clôture les thèmes développés dans cette partie de l'ouvrage.

Le choix du texte de base, autour duquel chaque chapitre est structuré, reflète notre attachement à la diversité des *genres* discursifs et à la démarche *recherche-action*. Ceci apparaît à travers les choix des textes sources : des ouvrages universitaires (17 chapitres), des articles de recherche (4 chapitres), des articles de la presse spécialisée (5 chapitres), des conférences publiques (2 chapitres), et des arrêts (2 chapitres). La sélection de textes proposée dans cette nouvelle édition se nourrit également du retour d'expérience pédagogique des auteurs, ainsi que des suggestions de nos collègues économistes, juristes, et spécialistes de cinéma et de l'audiovisuel.

Les textes¹ sont exploités d'abord au plan lexical par la constitution d'une liste de *Useful Words and Concepts*. L'étude de ces termes en travaux dirigés sert d'exercice de pré-lecture. Les termes de spécialité figurant sur la liste sont repris dans la rubrique *Definitions* et seront retrouvés dans un premier exercice de vocabulaire proposé en post-lecture, où il est demandé aux étudiants de les restituer. Certains termes et locutions non utilisés dans cet exercice figurent dans un deuxième exercice proposant aux étudiants de rechercher des synonymes, antonymes et collocations, ou de les restituer dans d'autres phrases. Tous les termes spécialisés, ainsi que leurs synonymes, se trouvent en fin d'ouvrage dans un index lexical. L'acquisition du vocabulaire spécialisé est vérifiée dans les *Comprehension Exercises*. La compréhension globale aussi bien que la compréhension spécifique de certaines parties du texte sont contrôlées par des questions ouvertes, des affirmations à confirmer ou infirmer et des questions à choix multiples.

Les exercices de grammaire permettent de retravailler des éléments récurrents ou saillants du texte. Les étudiants peuvent être invités à construire des phrases en utilisant les bonnes formes verbales, l'actif ou le passif, la modalité ou le conditionnel, par exemple. L'ensemble des points de grammaire est répertorié dans un index grammatical.

La dernière rubrique de chaque chapitre, *Assignment*, constitue un exercice de mise en situation réelle ou de contextualisation. Il propose à l'étudiant de faire des recherches et d'en rendre compte, oralement ou par écrit. Ceci peut ensuite donner lieu à une discussion au sein du groupe ou à un débat plus encadré, visant à favoriser la prise de parole.

Les enseignants pourront adapter cet ouvrage aux spécificités de leur cadre d'enseignement et le compléter par d'autres ressources pédagogiques. Nous remercions plus particulièrement les collègues qui, sous différentes formes, nous ont fait parvenir des remarques concernant les précédentes éditions, et ceux qui nous ont adressé des messages d'encouragement.

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Paris, mai 2018

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Les collègues qui le désirent peuvent demander un corrigé auprès des auteurs en justifiant de leur qualité d'enseignant.

1. Toutes les notes de bas de page ont été rédigées par les auteurs de cet ouvrage.

PART 1

ECONOMICS

IN THIS PART YOU WILL READ ABOUT

- The industrialization of rural England
- Protection, trade liberalization and development
- The economics of the movie business
- Measuring economic activity
- The workings of the Stock Exchange
- The basic functions of money
- Employment metrics in the sharing economy
- Industrial relations in Britain
- Social welfare in Britain
- Economic growth and environmental policy

YOU WILL LEARN SOME BASIC TERMS CONCERNING

- Manufacturing and mechanization
- Globalization
- The movie industry
- Economic indicators
- Stocks and shares
- Virtual currencies
- Employment relations
- Labour relations
- Social benefits
- Sustainable development

CHAPTER 1

THE INDUSTRIAL REVOLUTION

◇ Useful words and concepts

Industrial Revolution (the)

foreign markets

goods

domestic markets

output

home industries

export

manufactured

prior to

self-sufficient

subsistence

trading

factory

business (1)

smelting

iron

charcoal

cotton gin

power loom

steam engine

advocacy

laissez faire principle

spurred

cottage industries

increasingly

market economy

household

purchase

labor standards

wages

working conditions

better off

underway

crop

land tenure

patterns

scattered

plots

estates

grazing

livestock

acres

enclosed estates

hallmark

dissent

taking issue with

demanding

rights

widespread

poverty

unemployment

in the wake of

outcry

Instructions For Study

1. Turn to the **definitions** following the text *The Industrial Revolution*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to test your language skills.

The Industrial Revolution

During the first half of the 18th century the foreign markets for English-made goods grew at a much faster rate than England's domestic markets. Over the period 1700-1750, output of home industries increased by 7 percent, while that of export industries went up by 76 percent. This rapidly increasing foreign demand for English manufactured goods is considered as the single most important cause of the most fundamental transformation of human life in history known as the Industrial Revolution.

Prior to the Industrial Revolution (about 1750-1850), most families in England and other parts of Europe were largely self-sufficient, creating enough food and goods for their subsistence as well as small amounts for trading. The Industrial Revolution introduced the factory system of production and was marked by a rapid succession of remarkable inventions that accelerated the industrialization of business. Some inventions during this period were smelting iron with coal instead of charcoal, the cotton gin and power loom, and the steam engine. The writings of Adam Smith¹ at the time, especially his advocacy of the *laissez faire* principle (no government intervention in the economy), further spurred the revolution.

The industrial system gradually replaced cottage industries and home-based production. Workers were required to move into cities to find work. Away from land, their families were increasingly integrated into a market economy; instead of producing most of their household needs, especially food, they had no other choice but to purchase them. Advances in production were not, unfortunately, accompanied by fair labour standards. Workers were typically paid very low wages and were subjected to harsh working conditions.

People remaining in rural areas were not much better off. An agricultural revolution was already well underway in the 18th century. The introduction of new cultivation methods and crop varieties led to a dramatic change in land tenure patterns. Scattered, small plots of farmland were brought together to form large, enclosed estates, primarily for the purpose of grazing sheep and other livestock. Between 1760 and 1843, nearly seven million acres of agricultural land in England were enclosed in estates. As a result, large numbers of small farmers were driven from their land into neighbouring towns and villages with few remaining jobs.

A movement towards greater freedom of expression was another hallmark of this revolutionary period. The citizens of England began to publicly dissent with government policies, taking issue with the status quo and demanding more personal rights. Therefore, the widespread poverty, unemployment and general social deterioration that were left in the wake of the industrial and agricultural revolutions were met with a public outcry to the government for improved working and living conditions.

Adapted from: Kimberly A. Zeuli & Robert Cropp,
Cooperatives: Principles and Practices in the 21st Century, 2004,
© UW-Extension and the Board of Regents.

1. **Adam Smith (1723-1790)**: Scottish economist and philosopher whose work *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776) laid the foundations of classical free-market economic theory based on private enterprise and free trade.

◆◆ DEFINITIONS ◆◆◆

- ◆ **Industrial Revolution (the)** extended period of radical socioeconomic changes that took place in England (about 1750-1850) when the extensive mechanization of production systems resulted in a shift from home-based hand manufacturing to large scale factory production
- ◆ **foreign markets** areas outside its own borders to which a country exports its goods and services; *export markets, external markets*
- ◆ **goods** products made to satisfy needs
- ◆ **domestic markets** where goods and services are bought and sold within the borders of a country as opposed to exported; *home markets, internal markets*
- ◆ **output** the quantity of goods or services produced over a given time period by a firm or industry
- ◆ **export** shipping goods from one country to another for sale or exchange
- ◆ **self-sufficient** the extent to which a country can supply its own needs by what it can produce and develop itself without external assistance
- ◆ **trading** the activity of exchanging, or the buying and selling of goods; *commerce*
- ◆ **business (1)** type of activity taking place in a profit-oriented organization such as a company or a shop
- ◆ **cotton gin** a machine that quickly and easily separates cotton fibers from their seeds, allowing for much greater productivity than manual cotton separation
- ◆ **power loom** a machine that is powered mechanically instead of using human labour to weave patterns or thread into cloth
- ◆ **steam engine** machine using steam power to perform mechanical work through the agency of heat
- ◆ **laissez faire principle** an economic doctrine that opposes governmental regulation or interference in commerce beyond the minimum necessary for a free enterprise system to operate according to its own economic laws
- ◆ **cottage industries** the production, for sale, of goods at home, such as the making of handicrafts by rural families
- ◆ **market economy** an economy that relies chiefly on market forces to allocate goods and resources and to determine prices
- ◆ **household** economic unit comprised of a single person living alone, a family or a group of people living under the same roof and sharing living arrangements
- ◆ **labor standards** norms established to ensure fair treatment of workers, to protect their rights in areas such as minimum wage and wage payment, hours of work and overtime, and to combat child labor
- ◆ **wages** workers' remuneration for the services of their labor; *pay*
- ◆ **working conditions** factors affecting the work environment, such as hours of work, occupational health and safety arrangements, as well as benefits
- ◆ **crop** a plant cultivated in large quantities on farms and in fields (e.g. corn, rice)
- ◆ **land tenure** the form or conditions under which land and buildings are held, especially when not freehold
- ◆ **livestock** the horses, cattle, sheep, and other useful animals kept or raised on a farm
- ◆ **enclosed estates** lands held in common in rural areas since medieval times which were surrounded by fences in 18th century England for the benefit of great landowners; *enclosures*
- ◆ **rights** protections, freedoms or guarantees provided by the state
- ◆ **poverty** the condition of being extremely poor, having little money and very few material possessions
- ◆ **unemployment** the situation of being jobless when willing and able to work

◇◇ EXERCISES ◇◇◇◇

◇◇ EXERCISE 1

Comprehension

True / False Circle the correct choice and justify your answer

1. The growth of home markets outpaced that of export markets in 18th century England. T / F
2. Most households were not able to provide enough food and goods for themselves before the Industrial Revolution. T / F
3. The system of production was transformed during the Industrial Revolution. T / F
4. Adam Smith's writings gave no particular impetus to the Industrial Revolution. T / F
5. The market economy meant that families purchased most of their food instead of producing it themselves. T / F
6. The people in the rural areas had a much better life than those who lived and worked in the cities. T / F
7. Many small farmers had to leave the rural areas because they no longer had access to farmland. T / F
8. The agricultural revolution lagged well behind the Industrial Revolution. T / F
9. The enclosure of small plots of farmland in big estates enabled small farmers to graze their sheep more productively. T / F
10. The status quo was increasingly being questioned by the citizens of England during the Industrial Revolution. T / F

◇◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate terms** to fit each sentence

1. Between 1700 and 1770 the foreign markets for English grew much faster than domestic markets.
2. The development of the led to profound economic and social changes.
3. Textile manufacturing was rapidly transformed into a factory industry from
4. The larger of manufactured goods produced at lower prices meant ever-increasing profits.
5. The textile industry was the most important in the early
6. During the period 1700-1750, output of industries increased by 76 percent.
7. New inventions such as the permitted the application of steam power.
8. In the late eighteenth century, people sought work in urban factories to escape rural poverty and
9. Industrial and urban development had negative effects, such as long working hours for low wages and bad in mines and factories.
10. Since only wealthy people in Great Britain were eligible to vote, workers could not use the democratic political system to fight for and reforms

(B) Fill in the blanks in the following text with the words from the list below

land / repressed / view / plans / community / workers / poverty / motivated / production / philosopher / run / competition / cities / industry / alternative / happiness / rural / self-employment / solution / together

Utopian Alternatives

The (1) and suffering caused by the Industrial Revolution led to the conceiving of alternative (2) to the urban, factory system of (3). Robert Owen (1771-1858), a prominent industrialist, and Charles Fourier (1772-1838), a famous French social (4) advocated the establishment of a new type of (5) to alleviate the harsh conditions of those (6) who were forced to leave the (7). Fourier's plans for self-reliant communities were (8) by the French Revolution and his (9) that the working class was being dehumanized and (10).

These communities were to be (11) ones in which farms and small-scale (12) would be (13) cooperatively by the citizens who would also live (14) communally. Owen originally envisaged these communities as a (15) for unemployment, but later believed (like Fourier) that they were a better (16) to private capitalism and (17). They were intended to provide (18) opportunities and other conditions that would lead to universal (19). Fourier coined the term "phalanxes" to refer to these communal (20).

Adapted from: Kimberly A. Zeuli & Robert Cropp, *Cooperatives: Principles and Practices in the 21st Century*, 2004, © UW-Extension and the Board of Regents.

◇ EXERCISE 3

Grammar

Passive and Active Voice

(A) Rewrite these sentences in the *passive voice*

Example: Increasing foreign demand stimulated profit seeking.
 Profit seeking was stimulated by increasing foreign demand.

1. The Industrial Revolution radically transformed England and eventually the rest of the world.
2. Robert Owen had advocated the establishment of a new type of community to alleviate poverty and suffering.
3. The French Revolution inspired Fourier's plans for self-reliant communities.
4. The industrial system was replacing cottage industries.
5. Steam was rapidly taking over water as the chief source of power in manufacturing.

(B) Rewrite these sentences in the **active voice** using the subject provided in brackets

Example: The Industrial Revolution is considered to have been a time of social and economic upheaval. (Historians)
Historians consider the Industrial Revolution to have been a time of social and economic upheaval.

1. As of the late 15th and 16th centuries large numbers of farmers were driven from their land. (The enclosure movement)
2. The laissez faire principle can be understood by reading Adam Smith. (Students)
3. There has been much debate about the relative living standards of people remaining in rural areas. (Economists)
4. Rural families were being increasingly integrated into the market economy during the 18th century. (The industrial system)
5. Nearly seven million acres of agricultural land are estimated to have been enclosed in estates between 1760 and 1843. (Researchers)

◇ EXERCISE 4

Assignment

1. Historians question the appropriateness of the term “Industrial Revolution” on the grounds that it covers a period far too long to justify a single label. It is contended that it is better to call it evolution and not revolution.
Research this question to find out the principal reasons underlying this viewpoint, sum up these reasons in a short essay of around 200 words and say whether you agree with them or not.
2. **Find out** more about the ideas of Adam Smith and **write** a short essay of around 200 words, summing up his ideas and saying whether you think they are still relevant today.

CHAPTER 2

FREE TRADE AND DEVELOPMENT

◇ Useful words and concepts

free trade
development
developing country
exported
failed
lousy
reluctant
serious money
second-rate
products
withdrawn
company
stuck to
business (1)
silk
chance
profits
tariffs
tough
foreign investment
bankruptcy
critics
let in
manufacturer

bailed out
central bank
virtually
nurture
infant industries
trade policy
deemed
banned
imports
import quotas
export subsidies
gunpowder
sailcloth
privatisation
state-owned enterprises
set up
key industries
household names
protection
trade liberalisation
International Monetary Fund
World Bank
loan

direct aid
subsidies (1)
World Trade Organization
tariff protection
trade restrictions
research and development
on its own
self-sufficiency
involved
get hold of
developed countries
foreign currency
provided
earned
trade
sleight of hand
effectively
opponents
imply
benefits
global integration
ill

Instructions For Study

1. Turn to the **definitions** following the text *Free Trade and Development*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to improve your language skills.

Free Trade and Development

Once upon a time, the leading car-maker of a developing country exported its first passenger cars to the US. Until then, the company had only made poor copies of cars made by richer countries. The car was just a cheap subcompact (“four wheels and an ashtray”) but it was a big moment for the country and its exporters felt proud.

Unfortunately, the car failed. Most people thought it looked lousy, and were reluctant to spend serious money on a family car that came from a place where only second-rate products were made. The car had to be withdrawn from the US. This disaster led to a major debate among the country’s citizens. Many argued that the company should have stuck to its original business of making simple textile machinery. After all, the country’s biggest export item was silk. If the company could not make decent cars after 25 years of trying, there was no future for it. The government had given the car-maker every chance. It had ensured high profits for it through high tariffs and tough controls on foreign investment. Less than ten years earlier, it had even given public money to save the company from bankruptcy. So, the critics argued, foreign cars should now be let in freely and foreign car-makers, who had been kicked out 20 years before, allowed back again. Others disagreed. They argued that no country had ever got anywhere without developing “serious” industries like car production. They just needed more time.

The year was 1958 and the country was Japan. The company was Toyota, and the car was the Toyopet. Toyota started out as a manufacturer of textile machinery and moved into car production in 1933. The Japanese government kicked out General Motors and Ford in 1939, and bailed out Toyota with money from the central bank in 1949. Today, Japanese cars are considered as “natural” as Scottish salmon or French wine, but less than 50 years ago, most people, including many Japanese, thought the Japanese car industry simply should not exist.

Virtually all of today’s rich countries used policy measures to protect and nurture their infant industries. Tariffs were not the only tool of trade policy used by rich countries. When deemed necessary for the protection of infant industries, they banned imports or imposed import quotas. They also gave export subsidies – sometimes to all exports (Japan and Korea) but often to specific items (in the 18th century, Britain gave export subsidies to gunpowder, sailcloth, refined sugar and silk).

The wealthy nations of today may support the privatisation of state-owned enterprises in developing countries, but many of them built their industries through state ownership. At the beginning of their industrialisation, Germany and Japan set up state-owned enterprises in key industries – textiles, steel and shipbuilding. In France, the reader may be surprised to learn that many household names – like Renault (cars), Alcatel (telecoms equipment), Thomson (electronics) and Elf Aquitaine (oil and gas) have been state-owned enterprises.

Despite this history of protection, subsidy and state ownership, the rich countries have been recommending to, or even forcing upon, developing countries policies that go directly against their own historical experience.

For the past 25 years, rich countries have imposed trade liberalisation on many developing countries through IMF and World Bank loan conditions, as well as the conditions attached to their direct aid. The World Trade Organization (WTO) does allow some tariff protection, especially for the poorest developing countries, but most developing countries have had to significantly reduce tariffs and other trade restrictions. Most subsidies have been banned by the WTO – except, of course, the ones that rich countries still use, such as agriculture, and research and development.

In the end, economic development is about mastering advanced technologies. In theory, a country can develop such technologies on its own, but technological self-sufficiency quickly hits the wall, as seen in the North Korean case. This is why all successful cases of economic development have involved serious attempts to get hold of advanced foreign technologies. But in order to be able to import technologies from developed countries, developing nations need foreign currency to pay for them. Some of this foreign currency may be provided through foreign aid, but most has to be earned through exports. Without trade, therefore, there will be little technological progress and thus little economic development.

But there is a huge difference between saying that trade is essential for economic development and saying that free trade is best. It is this sleight of hand that free-trade economists have so effectively deployed against their opponents – if you are against free trade, they imply, you must be against trade itself, and so against economic progress.

There are huge benefits from global integration if it is done in the right way, at the right speed. But if poor countries open up prematurely, the result will be negative. Globalization is too important to be left to free-trade economists, whose policy has so ill served the developing world in the past 25 years.

Excerpt from: Ha-Joon Chang,
Protecting the Global Poor, Prospect Magazine, Issue 136, July 2007

◇◇ DEFINITIONS ◇◇◇

- ◆ **free trade** exchanging of goods and services in global markets without export and import duties, quantitative restrictions and regulations designed to reduce or prevent such exchange
- ◆ **development** planned expansion and modernization of a nation's economy
- ◆ **developing country** one in which the present level of growth and income per head is insufficient to generate the savings necessary to provide for investment in substantial agricultural and industrial programmes
- ◆ **exported** shipped from one country to another for sale or exchange
- ◆ **products** goods produced by firms to satisfy customer needs
- ◆ **company** a commercial or industrial organization that aims at making a profit by doing business; *business enterprise, firm*
- ◆ **business (1)** type of activity taking place in a profit-oriented organization such as a company or a shop
- ◆ **profits** the income accruing to an enterprise; *earnings*
- ◆ **tariffs** custom duties (taxes) levied (raised) by a government on imported or exported goods
- ◆ **foreign investment** the investment by individuals or the government of one country in the property, industries, or securities of another country
- ◆ **bankruptcy** the situation in which a company is officially declared unable to pay its debts
- ◆ **bailed out** came to the rescue of a company in financial trouble
- ◆ **central bank** a country's leading bank which acts as a banker to the government and the banking system and which is responsible for issuing currency and implementing monetary policy
- ◆ **infant industries** emerging or nascent domestic industries that do not have the economies of scale that their older competitors from other countries may have
- ◆ **trade policy** regulations and agreements governing a country's exchange of goods or services internationally, including taxes, subsidies, and import/export matters
- ◆ **imports** goods and services bought from other countries
- ◆ **import quotas** a governmental restriction on the quantities of a particular commodity that may be imported within a specific period of time
- ◆ **export subsidies** payments made by the government to encourage the export of specified products
- ◆ **privatisation** changing something from state to private ownership or control
- ◆ **state-owned enterprises** companies which are funded, run and controlled by the state
- ◆ **household names** brands that are very well known by the public
- ◆ **protection** the imposition of duties or quotas on imports in order to protect domestic industry against foreign competition
- ◆ **trade liberalisation** reducing restrictions to trade such as tariffs and taxes, and other non-tariff barriers such as legislation and quotas
- ◆ **International Monetary Fund (IMF)** a United Nations agency founded at the Bretton Woods conference in 1944 to promote trade by increasing the exchange stability of the major currencies
- ◆ **World Bank** a United Nations agency established in 1944 to assist developing nations by loans guaranteed by member governments
- ◆ **loan** a sum of money a lender transfers to a borrower who agrees to pay it back with interest
- ◆ **direct aid** voluntary transfer of resources from one country to another which can be in the form of a loan or a grant; *foreign aid, foreign direct aid*

- ◆ **subsidies (I)** government provision of finance and other resources to support a business activity
- ◆ **World Trade Organization (WTO)** an international organisation based in Geneva that monitors and enforces rules governing international trade (successor to the General Agreement on Tariffs and Trade - GATT - created in 1947)
- ◆ **tariff protection** the levying of customs duties on imported goods to shelter a new industry until it is sufficiently well established to compete with the more developed industries of other countries
- ◆ **trade restrictions** measures such as taxes, quotas and subsidies taken by a government to reduce competing imports; *import restrictions*
- ◆ **research and development (R&D)** creative work undertaken on a systematic basis in order to increase the stock of knowledge, including knowledge of man, culture and society, and the use of this stock of knowledge to develop new applications
- ◆ **self-sufficiency** the extent to which a country can supply its own needs by what it can produce and develop itself without external assistance
- ◆ **developed countries** economically advanced nations characterized by large industrial and service sectors and high levels of income per head
- ◆ **foreign currency** money of a country other than one's own
- ◆ **trade** the activity of exchanging, or buying and selling of goods; *commerce*
- ◆ **global integration** the process of worldwide economic integration; *globalisation (I)*

◆◆ EXERCISES ◆◆◆

◆ EXERCISE 1

Comprehension

Circle the alternative (a), (b) or (c) that most fully and correctly completes the statements below

1. The car failed because
 - (a) it was a second-rate product
 - (b) potential buyers were unsure about its quality
 - (c) it was a cheap copy of those made by the US
2. In the debate that followed
 - (a) it was generally agreed that the company should not have diversified
 - (b) the government was criticized for its lack of support
 - (c) a lot of people contended that there was no future for a home-grown car industry
3. History has shown that infant industries
 - (a) can develop without tariffs and controls
 - (b) will develop quite adequately on the basis of tariffs
 - (c) require a mix of trade policy measures to develop
4. Today's rich countries gave export subsidies
 - (a) to all exports, at times, to specific items, frequently
 - (b) to some items only
 - (c) to all exports

5. State ownership
 - (a) was never supported by today's wealthy nations
 - (b) was common in key industries during the early industrialisation of today's wealthy nations
 - (c) is recommended to developing countries by the rich countries
6. The rich countries have been advocating policies for developing countries
 - (a) that contradict their own historical experience
 - (b) that are in line with their own historical experience
 - (c) that were previously forced upon them
7. The World Trade Organization (WTO)
 - (a) allows most developing countries some tariff protection
 - (b) imposed major tariff reductions on the poorest developing countries
 - (c) does allow some subsidies in specific areas
8. To develop economically, poor countries
 - (a) need to achieve technological self-sufficiency by their own means
 - (b) require the transfer of advanced foreign technologies
 - (c) should follow the North Korean example
9. Foreign currency is required by developing nations
 - (a) to pay for technology transfers
 - (b) to subsidize their export industries
 - (c) to develop their own technologies
10. The author argues that
 - (a) free trade is best
 - (b) globalisation can be beneficial to poor countries
 - (c) opponents of free trade are opponents of economic progress

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate term** to fit each sentence

1. Almost all rich countries got wealthy by protecting and limiting foreign investment.
2. The rich countries deny the poor ones the same chance to grow by forcing rules on them before they are strong enough to compete.
3. Had it just been Japan that became rich through protection, subsidies and the restriction of, the free-market champions might be able to dismiss it as the exception that proves the rule.
4. In the early 1800s, the US started shifting to a protectionist policy and by the 1830s its average industrial were the highest in the world and remained so until the second world war.
5. In the 18th century, to protect its infant industries, Britain gave to gunpowder, sailcloth, refined sugar and silk.
6. The early development of South Korea — together with Britain, the US, Japan and Taiwan — shows that active participation in international does not require free trade.
7. According to Ha-Joon Chang, developing countries should be allowed to use more freely the tools of infant industry promotion—such as, subsidies, foreign investment regulation and weak IP¹ rights.

1. Intellectual property

8. Economist Noreena Hertz argues that the should not be enforcing the letter of the free trade law, but adjudicating what is fair and right at present for struggling economies.
9. In early 2009, a report stated that 17 of the G20 countries had set up protectionist barriers over recent months.
10. is a game of unequal players, as it pits against each other countries that range from Switzerland to Swaziland.

(B) Match the words in column **(A)** used in the text with the word or expression of close meaning in column **(B)**

(A)	(B)
(a) adjectives	
1. (a) lousy (b) reluctant (c) serious (d) second-rate (e) tough	determined of poor quality strict of very poor quality unwilling
(b) verbs	
2. (a) let in (b) provided (c) deemed (d) set up (e) withdrawn	supplied established removed allow to enter considered
(c) nouns	
3. (a) opponents (b) critics (c) sleight of hand (d) benefits (e) chance	opportunity deception advantages people who are against something people who disapprove of something

◇ EXERCISE 3

Grammar

Determiners

Supply the **missing articles** where necessary

The Golden Straightjacket

In his book *The Lexus and the Olive Tree*, the American journalist, Thomas Friedman, states that (1) countries in (2) olive-tree world will not be able to join (3) Lexus world unless they fit themselves into (4) particular set of (5) economic policies he calls “..... (6) golden straightjacket.” In describing the golden straightjacket,

Friedman pretty much sums up today's neoliberal orthodoxy: (7) countries should privatise (8) state-owned enterprises, maintain (9) low inflation, reduce (10) size of government, balance (11) budget, liberalise (12) trade, deregulate (13) foreign investment and (14) capital markets, make (15) currency convertible, reduce (16) corruption and privatise (17) pensions. (18) golden straightjacket, Friedman argues, is (19) only clothing suitable for (20) harsh but exhilarating game of globalisation.

However, had (21) Japanese government followed (22) free-trade economists back in (23) early 1960s, there would have been no Lexus. Toyota today would at best be (24) junior partner to (25) western car manufacturer and (26) Japan would have remained (27) third-rate industrial power it was in (28) 1960s – on (29) same level as (30) Chile, Argentina and South Africa.

◇ EXERCISE 4

Assignment

Debate the following statement, dividing the class into proponents and opponents of globalisation:

“Global economic competition is a game of unequal players.”

Then **write** a short composition of about 200 words saying where you stand on the following opinion:

“There are huge benefits from global integration if it is done in the right way, at the right speed.”

CHAPTER 3

MOVIE MACROECONOMICS

◇ Useful words and concepts

entrepreneurial
business (1)
theatrical films
on the average
break even
audience sampling
pools of capital
motion picture
consent decree
distribution
exhibition
theater chains
locations
potent
impetus
talkies
late 1920s
designs
editing
composition
devices
bulky
film reel
shipments
availability
media
core business

packaging
broad
capital market
feature film
capital investments
oligopolistic
stamped out
assembly lines
interfacing with
shopping mall
owned
private companies
control
account for
exhibition revenues
long-standing
library assets
studio production facilities
“majors” (the)
independent filmmakers
picked up
completion
pictures
market segments
box-office revenues
underscores
sensitive

interest rates
Federal Reserve Bank
dry up
worthiest
exchange rate
gross rentals
domestic market
profitability
exporter
trade
net trade balance
happenstance
prowess
public good
joint consumption
consumer
detract from
viewers
per capita
household
household penetration
cost amortization
anti-trust actions
valuations

Instructions For Study

1. Turn to the **definitions** following the text *Movie Macroeconomics*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to improve your language skills.

Movie Macroeconomics

Moviemaking is still truly entrepreneurial. It is also a business, affected like any other by basic economic principles. Of any ten major theatrical films produced, on the average, six or seven may be broadly categorized as unprofitable and one might break even.

The major forces shaping the structure of the movie industry have historically included (1) technological advances in the filmmaking process itself, in marketing and audience sampling methods, and in the development of distribution and data storage capabilities using television signals, cable, satellites, video recorders, laser discs and computers (including the internet); (2) the need for ever-larger pools of capital to launch motion-picture products; (3) the 1948 consent decree separating distribution from exhibition; (4) the emergence of large multiplex theater chains in new suburban locations; and (5) the constant evolution and growth of independent production and service organizations.

Technology

Unquestionably the most potent impetus for change over the long term has been, and will continue to be, the development of technology. In the filmmaking process itself, for instance, the impact of technological improvements has been phenomenal. To see how far we have come, we need only remember that “talkies” were the special-effects movies of the late 1920s. Indeed, it was not until the 1970s that special effects began to be created with the help of advanced computer-aided designs and electronic editing and composition devices. By the early 2000s, technological developments in digital distribution and exhibition allowed the industry to eliminate the need for bulky film reel shipments and to begin artistic creation in a three-dimensional environment.

The ready availability of television, cable, and newer mobile display formats has also been important in changing the movie industry’s economic and physical structure. Film presentations in any of these media are competitive as well as supplementary to theatrical exhibitions, which historically constitute the core business. Advances in program distribution and storage capabilities have made it possible to see a wide variety of films in the comfort of our homes and at our own discretion.

Capital

After technology, the second most important long-term force for change has been the packaging, and the application of the total process of production, distribution and marketing of relatively large amounts of capital. In this regard, financing innovations have played a leading role. Without the development of sophisticated financing methods and access to a broad and deep capital market, it is doubtful that the movie industry could have arrived at the position it occupies today.

From an economist’s standpoint, it is also interesting to observe further that the feature-film business does not easily fit the usual molds. Industries requiring sizable capital investments can normally be expected to evolve into purely oligopolistic forms: steel and automobile manufacturing are examples.

But because movies – each uniquely designed and packaged – are not stamped out on cookie-cutter assembly lines, the economic structure is somewhat different. Here, instead, we find a combination of large oligopolistic production/distribution/financing organizations regularly interfacing with and being highly dependent on a fragmented assortment of small, specialized service and production firms.

Exhibition

In the United States, exhibition is dominated by several major theater chains which operate approximately 25,000 of the best-located and most modern urban and suburban (e.g., shopping mall) movie screens, with most of the other 15,000 or so older theaters still owned by individuals and small private companies. As such, the chains control about 60% of the screens, but they probably account for at least 80% of the total exhibition revenues generated.

Production and distribution

Theatrical film production and distribution has evolved into a multifaceted business, with many different sizes and types of organizations participating in some or all parts of the project development and marketing processes. Companies with important and long-standing presence in both production and distribution, with substantial library assets, and with some studio production facilities have been collectively and historically known as the “majors”. These companies produce, finance and distribute their own films, but they also finance and distribute pictures initiated by the so-called independent filmmakers, who either work directly for them or have projects picked up after progress towards completion has already been made.

Many smaller production companies also have significant distribution capabilities in specialized market segments and can occasionally produce and nationally distribute pictures that generate box-office revenues large enough to attract media attention. The enduring presence of so many different production and service organizations underscores the entrepreneurial qualities of this business. The many “independents” have been a structural fact of life since the industry began, and they add considerable variety and verve to the filmmaking process.

Production starts and capital

Without access to capital, no project can get off the ground. It should thus come as no surprise to find that the number of movies started in any year may be sensitive to changes in interest rates and the availability of credit. Moreover, because the industry ordinarily depends on a continuous flow of cash, when credit is restricted by the Federal Reserve Bank, sources of funding for movie projects rapidly dry up. No matter what the monetary environment, however, in theory (but not always in practice) only the worthiest projects are supported.

Exchange-rate effects

Between 45% and 65% of gross rentals earned by the majors usually are generated outside the so-called domestic market, which includes both the United States and Canada. Swings in foreign-currency exchange rates may therefore substantially affect the profitability of U.S. studio/distribution organizations.

Trade effects

Although every region of the world produces and distributes film and television programming, the United States has long been the dominant exporter, with a net trade balance for these products of at least \$6 billion a year. This domination can be explained as a function of historical happenstance,

technological innovation, availability of capital, application of marketing prowess, and culture. But from an economic standpoint, the essential elements are that:

- Movies and television programs have public-good/joint consumption attributes wherein viewing by one consumer does not use up the product or detract from the enjoyment of other viewers.
- The home market in the United States is relatively large in terms of population and per capita or per household penetration of cinema screens, television sets, cable connections and video playback devices – all of which provide relatively greater opportunity for cost amortization in the home market.
- The base language is English with the majority of its speakers residing in the wealthiest countries.

Concluding remarks

Many of the things that affect other industries – economic cycles, foreign exchange rates, antitrust actions, technological advances and interest rates – also affect profits and valuations here. From this angle, moviemaking is a business like any other. How the film business differs from other businesses is more easily seen from the microeconomic and accounting perspectives.

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 ◇◇ **DEFINITIONS** ◇◇◇

- ◆ **business (1)** type of activity taking place in a profit-oriented organization such as a company or a shop
- ◆ **theatrical films** motion pictures produced for screening in movie theaters
- ◆ **break even** to produce neither a profit nor a loss
- ◆ **audience sampling** using random selection techniques to define a population which will be surveyed to provide data for the movie industry to estimate film attendance figures
- ◆ **pools of capital** large amounts of funds which are available for a company to finance its investment projects rather than resorting to bonds or stocks
- ◆ **motion picture** an audiovisual work consisting of a series of related images which, when shown in succession, impart an impression of movement, together with accompanying sounds, if any
- ◆ **consent decree** a U.S. Supreme Court anti-trust ruling (*U.S. v. Paramount Pictures, et al.*), obliging the Hollywood studios to end the practice of block booking by requiring that all films be sold on an individual basis, and requiring that they divest themselves of their own theater chains
- ◆ **distribution** branch of the film industry which handles the releasing of films to the public for movie theater or home viewing
- ◆ **exhibition** retail branch of the film industry which involves the public screening of motion pictures for paying customers in movie theatres; *theatrical exhibition*
- ◆ **theater chains** groups of movie houses or cinemas which belong to one firm or brand and which operate nationwide or worldwide
- ◆ **talkies** the common term used for films with sound (beginning in 1927), as opposed to silent films
- ◆ **editing** the work of selecting and joining together shots to create a finished film
- ◆ **composition** the selection and the arrangement of elements in the frame of an image
- ◆ **shipments** goods or cargo moved (“shipped”) from one place to another by road, rail, air or sea
- ◆ **availability** the date when a motion picture is able to be shown commercially in a market as offered by the distributor to the exhibitor
- ◆ **media** communication channels through which news, entertainment, education, data or promotional messages are disseminated
- ◆ **core business** the primary area or activity that a company was founded on or focuses on in its business operations
- ◆ **capital market** that part of the financial system which enables companies to raise medium to long-term financing through the issuing of shares and bonds and in which securities are traded
- ◆ **feature film** a full-length motion picture, usually about 90 to 120 minutes long, on one particular topic; *feature*
- ◆ **capital investments** amounts of money used by a business to purchase or improve long-term assets such as property, plant or equipment; *capital expenditure*
- ◆ **oligopolistic** a market structure in which a small number of firms supply the major portion of an industry’s output
- ◆ **assembly line(s)** a manufacturing tool whereby a conveyor belt carries the work under construction between lines of employees (or robotic workers), each of whom performs a given operation or makes only one part of a product
- ◆ **shopping mall** a large enclosed shopping area with retail outlets and service facilities typically located in a suburban area, with on-site parking provided; *shopping centre*

- ◆ **owned** possessed, belonging to an individual or a legal person who has an exclusive right to enjoy, occupy and use the said property
- ◆ **private companies** companies whose shares are not traded on the open market and whose ownership is limited to a small number of investors who tend to be those who are closest to the founders: family, friends, colleagues, employees and angel investors; *private enterprises*
- ◆ **control** to hold enough of the capital to make all the important decisions about how a business is run
- ◆ **exhibition revenues** the cash value of total annual ticket sales resulting from the public screening of motion pictures in movie theaters; *box office revenues; box-office receipts*
- ◆ **library assets** stock of theatrical movies owned by a film company; *film library assets*
- ◆ **studio production facilities** buildings, equipment, or services that are provided for making films: sound-stages, rehearsal rooms, prop stores, paint shops, screening rooms, workshops for set construction and storage, art departments, production offices and parking bays
- ◆ **‘majors’ (the)** the seven largest producers and distributors of motion pictures (20th Century Fox, NBC Universal, The Walt Disney Company, Paramount Pictures, Sony, Warner Brothers, and Lionsgate); *studio-distributors*
- ◆ **independent filmmakers** small low-budget companies or entities for financing, producing, and distributing films (such as Miramax, New Line Cinema, Polygram) working outside of the mainstream system or a major Hollywood studio
- ◆ **picked up** taken over before completion by a major film company from an independent filmmaker
- ◆ **market segments** groups of customers or potential customers who share certain common characteristics
- ◆ **interest rates** the price of money
- ◆ **Federal Reserve Bank** the central bank of the United States, which regulates the U.S. monetary and financial system; *Fed (the)*
- ◆ **exchange rate** the price relationship between the currencies of two countries; *foreign exchange rate, foreign currency exchange rate*
- ◆ **gross rentals** the total of the distributor’s share of the money taken in at the box office computed on the basis of negotiated agreements between the distributor and the exhibitor; *gross proceeds*
- ◆ **domestic market** where goods and services are bought and sold within the borders of a country as opposed to exported; *home market, internal market*
- ◆ **profitability** return on capital employed
- ◆ **trade** the activity of exchanging, or buying and selling of goods; *commerce*
- ◆ **exporter** a company which ships its products for sale in a foreign country
- ◆ **net trade balance** the difference between the total value of goods exported and the value of goods imported by a country; *trade balance, balance of trade*
- ◆ **public good** a good for which the costs of production are independent of the number of people who consume it, that is, one person’s consumption does not diminish the quantity available to others
- ◆ **joint consumption** situation in which two or more persons (consumers) share the use of goods and services
- ◆ **consumer** a buyer of goods and services who uses them to satisfy their needs
- ◆ **viewers** people who watch television
- ◆ **per capita** the average per person, computed by dividing the amount of something consumed in a country by the number of people in that country; *per head*
- ◆ **household** an economic unit comprised of a single person living alone, a family or a group of people living under the same roof and sharing living arrangements

- ◆ **household penetration** the portion of total households reached within a geographical area by a product or a service in a given year
- ◆ **cost amortization** an accounting procedure by which an intangible asset’s cost (a patent, for example) is spread over that asset’s useful life and charged against (film) revenue; *amortization*
- ◆ **anti-trust actions** legal proceedings initiated to restrain monopolies, cartels or other large combinations of business and capital, with a view to maintaining and promoting fair competition
- ◆ **valuations** assessments of the value or of the price of something

◆◆ **EXERCISES** ◆◆◆

◇ EXERCISE 1

Comprehension

True / False Circle the correct choice and justify your answer

- | | |
|--|-------|
| 1. Making movies is a risky business. | T / F |
| 2. Special-effects movies are quite a recent development. | T / F |
| 3. The movie industry owes its ongoing success to technological innovations alone | T / F |
| 4. Sizable capital investments over the years have resulted in the movie industry taking on purely oligopolistic forms | T / F |
| 5. The best-located and the most modern screens are those that generate the most revenues. | T / F |
| 6. Independent filmmakers tend to steer clear of the “majors”. | T / F |
| 7. The monetary environment rarely plays a role in getting movie projects off the ground. | T / F |
| 8. Large studios will generally support the best movie projects. | T / F |
| 9. The U.S. film industry benefits only marginally from the widespread use of the English language. | T / F |
| 10. Both the macroeconomic and the microeconomic views contribute to an understanding of the movie industry | T / F |

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate terms** to fit each sentence

1. After several years of legal disputes, Paramount finally agreed in 1948 to sign a decree that separated production and distribution from
2. In Canada, Cineplex Galaxy, a theater chain, is estimated to control about 65% of total annual, as of 2013.
3. It generally requires at least 18 months to bring a movie project from conception to completion – the point at which all, mixing, and dubbing work has been done.
4. The majors still consistently generate the bulk of domestic film industry revenues: an estimated 90% of
5. More guesswork and ambiguity appear in the of library assets than in perhaps any other area relating to the financial economics of the movie business.

6. The UK film industry undertook a total of £1.1 billion of fixed in infrastructure and new technology over the period from 2000 to 2010.
7. A vast majority of films fail to as Hollywood not only has a hard time forecasting what audiences want but it also has difficulty analyzing past results.
8. A will locate a movie theater on the top floor to catch customers who, after a good movie, may linger for a while on the way down, dine in the Food Court or buy something.
9. As the costs of developing films can be significant and the outcomes unpredictable, adept use of intricate accounting practices and reporting standards are key to film cost
10. According to MPAA¹ data, in 2014, the U.S. film and television industry registered a positive in nearly every country in the world with \$16.3 billion in exports worldwide.

1. Motion Picture Association of America

(B) Match the words in column **(A)** with those in column **(B)** to form *collocations*

(A)	(B)
(a) Noun + noun	
1. (a) film (b) assembly (c) exchange (d) capital	rates pools programming line
2. (a) data storage (b) exhibition (c) viewer (d) cable	enjoyment connections revenues capabilities
3. (a) theatre (b) interest rate (c) marketing (d) media	prowess chains attention changes
4. (a) trade (b) movie (c) cost (d) motion picture	amortization industry balance screen
5. (a) video (b) market (c) television (d) credit	restrictions recorder segment signals
6. (a) production (b) export (c) studio (d) credit	availability facilities domination profitability

(A)	(B)
(b) Adjective, gerund or verb + noun	
7. (a) technological (b) monetary (c) suburban (d) sampling	location techniques advances environment
8. (a) microeconomic (b) oligopolistic (c) digital (d) break-even	exhibition point perspectives organizations
9. (a) domestic (b) entrepreneurial (c) filmmaking (d) computer-aided	process designs qualities market
10. (a) sampling (b) financing (c) special (d) economic	effects principles methods innovations

◇ EXERCISE 3

Grammar

Do or make?

Fill in the blanks using the appropriate form of the verb

1. A number of smaller independent producers have the choice to finance their productions away from the majors.
2. Using well-developed financial forecasting models has it possible for distributors and exhibitors to closely estimate ultimate gross receipts.
3. Television initially a lot of damage to the movie industry by turning audiences away from big-screen entertainment.
4. Technological advances in the filmmaking process have much to change the place where most of the revenues have been collected and most of the viewing has occurred.
5. The U.S. movie industry between 40% and 55% of its gross earnings on export markets.
6. The U.S. movie industry good business during vacation periods such as Thanksgiving, Christmas and Easter when children are out of school.
7. Many newer independents largely finance their own productions and merely distribution agreements with the larger studios.
8. A clear distinction should be between the macroeconomic and microeconomic views of the movie industry.
9. The large studios/financiers/distributors will everything possible to support the worthiest projects.
10. In the late 1920s companies their best to survive when the industry was shaken by the introduction of motion pictures with sound and, soon thereafter, by the Great Depression.

◇ EXERCISE 4

Assignment

-
1. “Many people imagine that nothing could be more lucrative than making movies [...] Nonetheless, ego gratification rather than money may often be the only return on investment in film.” (Harold L. Vogel)
Discuss in class the economics which underpins this statement.
 2. Media pioneer Marshall McLuhan noted that “the content of any medium¹ is always another medium”² (e.g., the book spawns the movie, which begets the play, the record album, and the video game, or vice versa).
Visit the websites of the movie industry “majors” to investigate this issue and deliver a short oral report on it to the class.

1. Singular form of ‘media’

2. Understanding Media: The Extensions of Man (1964)

CHAPTER 4

GROSS DOMESTIC PRODUCT

◇ Useful words and concepts

Gross Domestic Product (GDP)

peer-to-peer platforms

distribution

consumer

habits

measure up

consumption

goods

sold value

final goods

aggregate variables

incomes

households

expenditures

metric

shortcomings

aggregate

evidence

averages

economic growth

congestion

commuters

work-life balance

market measures

non-market activities

domestic labor

do-it-yourself

bartering

carpooling

childcare

coops

supper clubs

overstate

healthcare

gambling

slip under the radar

finite resources

unsustainable

externalities

overcrowding

overlooked

consumer surplus

salient

sharing economy

alternative

World Bank

Human Development Index

educational attainment

standards of living

Office for National Statistics

dashboard

indicators

quarterly

OECD

weighed

alongside

sustainability

digitization

search engines

widespread

empowered

feedback

reviews

fit

loosely speaking

actual

Instructions For Study

1. Turn to the **definitions** following the text *Gross Domestic Product*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to improve your language skills.

Gross Domestic Product

Peer-to-peer platforms are transforming financing, production, distribution, and service delivery around the world. The challenge is finding ways to measure the impact of these different changes, which include economic effects, qualitative changes in consumer habits, and other improvements of people's economic lives.

Do our established models for measuring economic impacts **measure up?**

It's helpful to start by assessing the commonly used measure of economic activity, the GDP index, a measure of consumption and production calculated through the prices of all goods and services produced in an economy. In essence, GDP captures the "sold value" of production of final goods in the economy by subtracting intermediate forms of consumption, thus providing a clear net picture of economic activity. It focuses on aggregate variables - the total sum of money spent on goods and services, or the total sum of incomes paid out to households, or the total sum of expenditures. While not perfect, these combined approaches provide a useful picture of the overall health of traditional economies.

While GDP remains a key metric for making fiscal and monetary policy decisions, a number of **shortcomings** of GDP as a measure of economic health are well known.

First, GDP is an aggregate measure. It provides no evidence of how income or consumption or wealth is distributed. Large changes in inequality may not be represented in the GDP's averages or aggregate statistics.

Second, GDP doesn't fully capture the extent to which economic growth can, at times, have a negative impact on quality of life. Increasing traffic congestion also increases gas consumption, which adds to GDP, but the long-term impacts of **traffic congestion** are generally not positive - they lower commuters' quality of life by extending their workday and compromising their work-life balance.

Third, since GDP is only focused on market measures, nonmarket activities (e.g., unpaid domestic labor, do-it-yourself repairs, and various forms of bartering and exchange) also typically go unmeasured. Correspondingly, if previous nonmarket economic activities like carpooling, childcare, coops, supper clubs, and apartment barterers start to become commercial, GDP may **overstate** changes in economic activity.

Fourth, GDP is, in a sense, blind to the *quality* of spending - spending on education or healthcare and spending on gambling are treated the same, with no regard for the impact these very different types of spending might have on future growth and well-being. Indeed, quantity rather than quality, is the focus of the GDP, which means quality-of-life improvements often slip under the radar.

Fifth, since the GDP does not take finite resources into account, spending that is unsustainable (e.g., spending on coal, oil, or gas and other nonrenewable resources) are not adequately captured. On a related note, other externalities, such as pollution and overcrowding, are also **overlooked** in GDP measures.

And finally, GDP does not capture changes in “consumer surplus”.

The **shortcomings** of the GDP are by no means news, even if they become increasingly salient with the rise of the sharing economy. As a result, there are already at least a few alternative measures proposed. The World Bank’s Human Development Index seeks to measure broader social indicators (e.g., educational attainment and health) and standards of living (like leisure time). The UK Office for National Statistics has adopted the Measures of National Well-being and now releases a dashboard of indicators on a quarterly basis that seek to capture economic impacts that extend the limited measures captured by the GDP. The Better Life Indicator of the Organization for Economic Cooperation and Development (OECD) takes into account additional factors, including civic engagement and work-life balance. A more radical shift in thinking is represented by the Social Progress Index, which replaces economic metrics with social and environmental ones. Here, basic human needs, such as nutrition and access to basic medical care, water, sanitation services, and safety, are **weighed** alongside other factors including **sustainability**, human rights (e.g., freedom of assembly), tolerance (e.g., for immigrants) and access to higher education.

The digitization of the economy exacerbates some of these shortcomings with GDP. Consider the example of measuring the economic impact of search engines like those of Google or Internet Explorer. As search engine use has become **widespread**, consumers have become increasingly **empowered** - they can make better choices with access to superior information, a large number of markets, and up-to-date feedback and reviews on products. However, part of the higher quality of one’s consumer experience is often realized as an intangible “better product fit” or by an increase in what economists call “consumer surplus,” which, **loosely speaking**, measures the difference between the maximum amount the consumer would be willing to pay for a product or service and the actual amount paid. Thus, a big fraction of Google’s impact on the economy isn’t captured since changes in consumer surplus are not reflected in the GDP.

Sundararajan, Arun., *The Sharing Economy: The End of Employment and the Rise of Crowd-Based Capitalism*,
792 word excerpt from pages 110-112,
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◆◆ DEFINITIONS ◆◆◆

- ◆ **Gross Domestic Product (GDP)** the total monetary value of the overall output of goods and services produced annually within a country's geographic borders
- ◆ **peer-to-peer platforms** decentralized online platforms whereby two individuals interact directly with each other, without intermediation by a third-party, or without the use of a company or business selling a product or service; *P2P platforms*
- ◆ **distribution** the movement of goods and services from the producer to the final consumer or end user
- ◆ **consumer** a buyer of goods and services who uses them to satisfy their needs
- ◆ **consumption** the proportion of national income spent by households on final goods and services; *consumption expenditure*
- ◆ **goods** products made to satisfy needs
- ◆ **sold value** total amount of all sales expressed in monetary terms
- ◆ **final goods** products whose manufacture is complete but which are waiting to be sold; *finished goods*
- ◆ **aggregate variables** various economy-wide phenomena, such as GDP, national income, growth rates, unemployment and price levels; *aggregate economic variables*
- ◆ **incomes** earnings received from doing work or from investments
- ◆ **households** economic units comprised of a single person living alone, a family or a group of people voluntarily living under the same roof and sharing living arrangements
- ◆ **metric** standard of measurement by which efficiency, performance, progress, or quality of a plan, process, or product can be assessed
- ◆ **aggregate** made up of several smaller amounts or scores added together
- ◆ **evidence** facts or data that make something plain or clear
- ◆ **average(s)** the arithmetic mean obtained by dividing the sum of two or more quantities by the number of items
- ◆ **economic growth** an increase in a country's output of goods and services over time; *growth (1)*
- ◆ **commuters** people who travel some distance every day to get to work
- ◆ **work-life balance** the optimal arrangement of an individual's on-the-job and private time to facilitate health and personal satisfaction without negatively impacting productivity and professional success
- ◆ **market measures** figures corresponding to economic activity that are actually recorded in the national income accounts
- ◆ **nonmarket activities** economic activities that, although usually legal, are not recorded in the national income accounts
- ◆ **domestic labor** the many tasks associated with maintaining a household such as childcare, elder care, or housework
- ◆ **bartering** trading goods or services for other things instead of for money
- ◆ **carpooling** an arrangement whereby several participants travel together in one vehicle, sharing the costs and often taking turns as the driver
- ◆ **childcare** the supervision and nurturing of a child provided by a parent, a childminder or by an organized childcare centre
- ◆ **coops (cooperatives)** user-owned and user-controlled businesses that distribute benefits on the basis of use
- ◆ **healthcare** the maintenance and improvement of personal health

- ◆ **finite resources** natural materials that once consumed cannot be replaced; *nonrenewable resources, depletable resources*
- ◆ **externalities** factors that are not included in the gross national product but which have an effect on human welfare
- ◆ **consumer surplus** the difference between the total amount that consumers are willing and able to pay for a good or service (indicated by the demand curve) and the total amount that they actually do pay (i.e. the market price)
- ◆ **sharing economy** an economic model based on people taking underutilized assets (resources) and making them accessible online to a community, for free or for payment, leading to a reduced need for ownership of those assets; *crowd-based capitalism, on-demand economy, gig economy*
- ◆ **World Bank** a United Nations agency established in 1944 to assist developing nations through loans guaranteed by member governments
- ◆ **Human Development Index** a tool for measuring the social and economic development levels of countries, taking into account schooling, life expectancy and gross national income per capita
- ◆ **educational attainment** the highest level of education that an individual has completed
- ◆ **standards of living** the monetary and non-monetary or social indicators which characterize a person's lifestyle, traditionally measured by a country's gross national product and per capita income; *living standards*
- ◆ **Office for National Statistics** executive office of the UK Statistics Authority, a non-ministerial department which is charged with the collection and publication of statistics related to the economy, population and society of the UK
- ◆ **OECD (Organization for Economic Cooperation and Development)** an intergovernmental economic organization of 35 member countries, committed to democracy and the market economy, which was founded in 1960 to develop economic progress and world trade
- ◆ **sustainability** development that meets the needs of the present, without compromising the ability of future generations to meet their own needs; *sustainable development*
- ◆ **digitization** conversion of analog information in any form (text, images, voice, etc.) to digital form so that the information can be processed, stored, and transmitted through digital circuits, equipment, and networks; *digitalization*
- ◆ **search engines** computer software used to search for data on the internet like that of Google or Internet Explorer
- ◆ **feedback** information derived from the reaction or response to a product, process or activity
- ◆ **empowered** having been provided with the means to achieve something

 ◇◇ **EXERCISES** ◇◇◇

◇ EXERCISE 1

Comprehension

True / False Circle the correct choice and justify your answer

1. The three aggregate variables focused on by GDP add up to the same amount. T / F
2. Economists have long been aware of the GDP's shortcomings. T / F
3. GDP figures capture adequately the unequal distribution of wealth in society. T / F
4. Nonmarket activities escape measurement by the GDP index. T / F
5. It doesn't really matter that spending on gas, gambling and health care receive equal treatment in GDP metrics. T / F
6. Externalities are adequately taken into account in GDP measures. T / F
7. The author considers that the Social Progress Index is too radical to replace economic metrics. T / F
8. The higher quality of spending enabled by the digitization of the economy is not accounted for in the GDP. T / F
9. Google is the only search engine to have successfully empowered consumers. T / F
10. The GDP metric should be discarded. T / F

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate terms** to fit each sentence

1. The motivations for engaging in crowd-based capitalism are not always purely monetary issues such as also come into it.
2. The sharing economy creates new experiences of higher quality and greater variety.
3. The dramatic increases in quality and variety brought by crowd-based capitalism are bound to accelerate, rather than slow
4. One observer has lamented the absence of clear that the digital revolution of the last two decades has had a significant impact on the growth rates of total factor productivity.
5. The expansion of crowd-based capitalism reinforces the need to extend our measurement of economic impacts to include indicators not well captured by
6. The Lyft app enables on demand, but flexibly, on your own schedule.
7. A number of studies over the last 15 years have documented changes in that digitization creates.
8. By 2013, cities were grappling with the regulatory challenges raised by platforms like Airbnb.
9. One economist hypothesizes that part of the returns of are often captured by a firm's employees in the form of human capital which diffuses to other firms when these employees switch jobs.
10. Digital technologies will quite possibly expand into much broader areas of the economy, such as real estate, transportation, energy and

(B) **Find** words or expressions in the text that mean the following

1. when a road is extremely crowded and blocked with cars, buses and lorries
2. not able to be maintained at the same rate or level
3. in approximate terms, more or less
4. be good enough to fulfil people's expectations
5. considered carefully
6. occurring over a large area or to a great extent
7. not noticed or seen as important
8. weaknesses or deficiencies
9. describing something in a way that makes it seem more important than it actually is
10. provided with the means to achieve something

◇ EXERCISE 3

Grammar

Interrogatives

Ask questions using: how / how much / who / whose / which / what / when / why

1. The shortcomings of GDP as a measure of economic health are very well known. [how]
2. GDP does not take finite resources into account. [what]
3. GDP focuses on aggregate variables. [which]
4. The UK Office for National Statistics has adopted the Measures of National Well-being. [who]
5. Quantity rather than quality is the focus of GDP, which means quality-of-life improvements often slip under the radar. [why]
6. The impacts of traffic congestion lower commuters' quality of life. [whose]
7. As search engine use has become widespread, consumers have become increasingly empowered. [when]
8. Consumer surplus measures the difference between the maximum amount the consumer would be willing to pay for a product and the actual amount paid. [what]
9. GDP provides no evidence of how income or consumption or wealth is distributed. [how much]
10. GDP captures the "sold value" of production of final goods in the economy by subtracting intermediate forms of consumption. [how]

◇ EXERCISE 4

Assignment

1. **Write** a composition of around 400 words summing up the author's criticisms of GDP, saying whether you believe these criticisms are well-founded or not. Make clear what your views are on GDP as a measure of economic activity.
2. The author proposes four alternative measures that address economic impacts not taken into account by the GDP. Use these proposals, as well as ideas of your own, to **design** an improved GDP index.
Deliver a 15-minute **oral presentation** of your results to the class.

CHAPTER 5

STOCK MARKETS

◇ Useful words and concepts

stock markets

stock exchange

located

securities

heavily

traded

handle

regional exchanges

remainder

American Stock Exchange

located

blocks

NASDAQ

dealers

“tech” stocks

soared

plummeted

boom

unlike

trading floor

LED screen

display

headquarters

ticker

advertisements

companies

giants

competition

online trading

brokerages

topped

households

regulation

compliance departments

oversee

monitoring

funding

scrutinize

Securities and Exchange

Commission

cushion

forestall

crash

circuit breakers

Dow Jones Industrial

Average

sample

closing value

quarter

designed

head off

corporations

raise

stock issues

investment bank

second-hand securities

provide

issued stocks

perform

critically

corporate financing

current

market price

tied to

effectiveness

consumer

demands

diligence

innovation

channel

voice

claim

stock prices

profitability

earnings

critics

gambling

hunch

accurate

plant

assets

takeover

take control of

financiers

management

inordinately

bargain

prospects

fire

chairman

president

top officers

Instructions For Study

1. Turn to the **definitions** following the text *Stock Markets*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to improve your language skills.

Stock Markets

Stock Exchanges and their Functions

The New York Stock Exchange (NYSE) is perhaps the world's most prestigious stock market. Located on Wall Street in New York City, it is "the establishment" of the securities industry. The NYSE deals with only the best-known and most heavily traded securities – about 2,800 companies in all, as of 2010. The NYSE handles a little over half of all stock market transactions in the United States (measured in dollar volume). Regional exchanges together with the American Stock Exchange (located a few blocks away from the NYSE) handle less than 10 percent of the total stock traded.

The remainder of all stock transactions are carried by NASDAQ (also known as the Nasdaq Stock Market), which draws its name from the National Association of Securities Dealers. It is the home of most of the "tech" stocks that soared in the late 1990s, plummeted in 2000-2002, and have now returned to their pre-boom levels. Unlike the NYSE, NASDAQ has no physical trading floor, although it does have an outdoor display at its headquarters in New York City's Times Square, where a spectacular eight-story LED screen runs a continuous stock ticker, delivers market news, and shows advertisements and logos of NASDAQ member companies. All of its transactions are carried out on a computer network, with NASDAQ handling the stocks of approximately 3,300 companies, including such giants as Intel and Microsoft.

In recent years, the established stock markets have faced competition from another source. With the rapid growth of the Internet, people are now buying and selling stocks directly through their home computers. It is estimated that the number of online trading accounts at major U.S. brokerages increased from 1.5 million in 1997 to 19.7 million at the end of 2001, and topped 50 million in 2004. According to one estimate, 12 million American households will be trading online by 2011 - an increase of 48 percent from 8.1 million households in 2006¹.

Regulation of the Stock Market

Both the government and the industry itself regulate the U.S. securities markets. At the base of the regulatory pyramid, stock brokerage firms maintain compliance departments to oversee their own operations. At the next level, the NYSE, the American Stock Exchange, NASDAQ, and the regional exchanges are responsible for monitoring their member firms' business practices, funding adequacy, compliance, and integrity. They also use sophisticated computer surveillance systems to scrutinize trading activity. The Securities and Exchange Commission (SEC) is the federal government agency that oversees the market's self-regulation.

One example of these self-imposed rules involves the steps that markets adopted after the October 1987 stock market crash to cushion future price falls.

1. In Spring 2017, the number of people who lived in a household that used an online investing/stock trading service within the last 12 months amounted to 15.79 million (Statista – The Statistical Portal: www.statista.com)

Starting in 1988, with amendments since then, the NYSE and other stock markets adopted a series of rules called circuit breakers, which now halt all trading for one hour, two hours, or the remainder of the trading day when the Dow Jones Industrial Average (a widely followed average price of a sample of stocks) declines below its previous day's closing value by defined percentage amounts (which are adjusted every quarter). These restrictions on trading vary with the severity of the drop in the Dow and with the time of the day when the drop occurs. Circuit breakers were designed to head off panics among market participants and forestall crashes like the ones in October 1929 and October 1987.

Stock Exchanges and Corporate Capital Needs

Although corporations often raise needed funds by selling stock, they do not normally do so through the stock exchanges. New stock issues are typically handled by a special type of bank, called an investment bank. In contrast, the stock markets trade almost exclusively in "second-hand securities" – stocks in the hands of individuals and others who bought them earlier and now wish to sell them. Thus, the stock market does not provide funds to corporations needing financing to expand their productive activities. The markets provide money only to persons who already hold previously issued stocks.

Nevertheless, stock exchanges perform two critically important functions for corporate financing. First, by providing a second-hand market for stocks, they make individual investment in a company less risky. Investors know that if they need money, they can always sell their stocks to other investors or to stock market specialists at the current market price. This reduction in risk makes it far easier for corporations to issue new stocks. Second, the stock market determines the current price of the company's stocks. That, in turn, determines whether it will be difficult or easy for a corporation to raise money by selling new stocks.

Some people believe that a company's stock price is closely tied to its operational efficiency, its effectiveness in meeting consumer demands, and its diligence in going after profitable innovation. According to this view, firms that use funds effectively will usually have comparatively high stock prices, and that will enable the firms to raise more money when they issue new stocks through their investment banks and sell them at the high prices determined by the stock market. In this way, the stock market tends to channel the economy's funds to the firms that can make best use of the money.

Other people voice skepticism about the claim that the price of a company's stock is closely tied to efficiency. These observers believe that the demand for a stock is disproportionately influenced by short-term developments in the company's profitability and that the market pays little attention to management decisions affecting the firm's long-term earnings growth. These critics sometimes suggest that the stock market is similar to a gambling casino in which hunch, rumor, and superstition have a critical influence on prices.

Whether or not stock prices are an accurate measure of a company's efficiency, if a company's stock price is very low in comparison with the value of its plant, equipment, and other assets, or when a company's earnings seem low compared to its potential level, that company becomes a tempting target for a takeover. Perhaps the firm's current management is believed not to be very competent and those who seek to take control of the company believe that they can do better. Alternatively, if the demand for a company's stocks is believed to be inordinately influenced by short-term developments, such as temporarily low profits, others may believe that it is a bargain in terms of the low current price of the stock and its more promising future earnings prospects. A takeover occurs when a group of outside financiers buys a sufficient amount of company stock to gain control of the firm. Often, the new controlling group will simply fire the current management and substitute a new chairman, president, and other top officers.

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◆◆ DEFINITIONS ◆◆◆

- ◆ **stock markets** the financial markets where securities (shares and bonds) are traded; *stock exchanges*
- ◆ **securities** general name for stocks and shares of all types; in common usage stocks are fixed interest securities (e.g. bonds), while shares are the rest
- ◆ **traded** bought and sold
- ◆ **regional exchanges** stock exchanges that operate outside of the United States main financial centre in New York City.
- ◆ **American Stock Exchange (AMEX)** the third-largest stock exchange by trading volume in the United States
- ◆ **NASDAQ (National Association of Securities Dealers Automated Quotations)** a global electronic marketplace for trading securities, as well as the benchmark index for US technology stocks
- ◆ **boom** a period of fast increase or development
- ◆ **trading floor** enclosed area in a stock exchange where transactions are made by shouting selling and buying orders
- ◆ **LED screen** flat panel which uses an array of light-emitting diodes (LED) as pixels for a video display
- ◆ **advertisements** paid announcements or public notices of goods or services for sale
- ◆ **companies** commercial or industrial organizations that aim at making a profit by doing business; *business enterprises, firms*
- ◆ **giants** companies which are among the leaders in a particular sector of activity; *major players*
- ◆ **competition** rivalry between two or more business enterprises to secure a market share or to win new markets at each other's expense, *business rivalry*
- ◆ **online trading** the buying and selling of securities through the internet
- ◆ **brokerages** financial institutions that facilitate the buying and selling of financial securities between a buyer and a seller; *brokerage firms, brokerage houses*
- ◆ **households** economic units comprised of a single person living alone, a family or a group of people living under the same roof and sharing living arrangements
- ◆ **regulation** a process established by law that restricts or controls some specified decisions made by the affected firms, and which is usually carried out by a special government agency
- ◆ **compliance departments** units within brokerage houses, banks or financial institutions that ensure the implementation of all applicable laws, rules and regulations
- ◆ **Securities and Exchange Commission (SEC)** the federal government agency that oversees the stock market's self-regulation
- ◆ **crash** a sharp drop in economic activity and stock prices
- ◆ **circuit breakers** measures designed to prevent panic selling on stock exchanges by stopping trading after a security or an index has fallen by a certain amount
- ◆ **Dow Jones Industrial Average** the stock market index compiled by the Dow Jones Irwin company, the three averages of which are the industrials, the transportations and the utilities
- ◆ **closing value** stock prices at the end of a day's trading on the stock market
- ◆ **corporations** large companies that are legal entities separate and distinct from their members, that are owned by a number of persons called stockholders, and run by a set of elected officers and a board of directors headed by a chairperson
- ◆ **stock issues** the shares of stock (equities) or bonds sold by a corporation at a particular time; *equity stock issues*

- ◆ **investment bank** financial institutions which act for and advise companies, and which underwrite new issues of securities; *merchant banks*
- ◆ **second-hand securities** shares and bonds already issued by companies.
- ◆ **issued stocks** bonds and shares that are already held by stockholders
- ◆ **corporate financing** the area of finance that deals with the sources of funding of businesses
- ◆ **market price** the current or customary price of a good in the marketplace
- ◆ **consumer** buyer of goods and services who uses them to satisfy their needs
- ◆ **innovation** process by which an idea or invention is brought onto the market
- ◆ **stock prices** market prices of a company's shares
- ◆ **profitability** return on capital employed
- ◆ **earnings** gross margin of a company minus its operating expenses; *net income, net profit*
- ◆ **plant** the equipment, including the fixtures, machinery, tools etc., and often the buildings necessary to carry on any industrial business
- ◆ **assets** resources that a company owns or is owed and which can be converted into cash; *business assets*
- ◆ **takeover** situation in which one firm buys a controlling interest in another through the purchase of its shares; *acquisition*
- ◆ **take control of** to win enough of a company's capital to make all the important decisions about how it is run; *gain control of*
- ◆ **management** group of people in an organization that have decision-making or supervisory responsibilities
- ◆ **chairman** head of the board of directors of a company, answerable to the shareholders; *chairperson*
- ◆ **president (US)** person with the ultimate responsibility for a firm's overall operations and performance; *chief executive officer (CEO), chief officer (CO)*
- ◆ **top officers** the highest-ranking executives in a corporation; *chief officers*

◆◆ EXERCISES ◆◆◆

◆ EXERCISE 1

Comprehension

Answer these questions

1. Why is the NYSE referred to as the “establishment”?
2. What is different about NASDAQ?
3. How are established stock markets being challenged?
4. Does the U.S. government have sole responsibility for regulating the stock market?
5. How do circuit breakers function?
6. Do corporations raise new finance through stock exchanges?
7. Is the role played by stock exchanges important today?
8. Is a corporation stock price closely linked to its overall performance?
9. In what circumstances might a company be taken over?
10. Do takeovers usually ensure continuity of top management staff?

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate terms** to fit each sentence

1. Stock exchanges run markets in which new and are bought and sold.
2. A stock will fall in price if a firm's are poor or disappointing.
3. The protects the interests of people who buy securities.
4. New are initially dealt with by specialist financial institutions.
5. are a much more liquid form of wealth than real investments.
6. When the old of a company opposes a takeover attempt, it is called a hostile takeover attempt.
7. When prices suddenly fall on the, observers often blame speculators.
8. Before the Wall Street Crash of 1929, there was little of securities in the United States at the federal level.
9. were originally places for trading the stock of local companies which were not listed on a national exchange.
10. At the end of June 2016, 37% of the U.S. equity market was owned by

(B) **Fill in the blanks** in the following text with the words from the list below

sell / company / ridiculous / convinced / stocks / late / per / attains / theory / purposes / price / undoubtedly / buy / information / worth / sense / share / business / foolishly / even

The “Greater Fool” Theory

First, many people who buy (1) – both professionals and amateurs – do so for speculative (2). They may not care (or even know!) what the (3) does; they care only that its stock (4) goes up. Second, in a speculative world, where people (5) stocks in order to sell them later, a share of stock is basically (6) what someone else will pay for it. So even if Smart Susan is (7) that Dotcom.com has poor (8) prospects, it may still be rational for her to buy the stock at \$50 (9) share if she is convinced that she will be able to (10) it to Foolish Frank next year for \$100 per (11). This idea has been called the “greater fool” (12) of investing: It makes (13) to buy a stock at a (14) high price if you can sell it at an (15) higher price – to an even greater fool! Third, once something (16) the status of a fad, waves of buying can drive prices up to (17) levels, as has happened many times in history. Fourth, America (18) fell in love both with (19) technology (especially the Internet) and the stock market (especially Internet-related stocks) in the (20) 1990s.

◇ EXERCISE 3

*Grammar***Adverbs of time**

Complete the sentences below using *already*, *always*, *yet* or *still*

1. The stock market will not provide the expected return on investment.
2. The NYSE handles a little over half of all stock market transactions in the United States.

3. NASDAQ “tech” stocks soared in the late 1990s but had plummeted by 2000-2002.
4. Some people believe that securities markets are best regulated by the industry itself.
5. Soon after it erupted in 2008, the financial crisis had been compared to the October 1929 and October 1987 crashes.
6. Although a rash of scandals erupted in the corporate world in the early 2000s, the greatest one, the Maddox Ponzi scheme, had not been exposed
7. Circuit breakers do not succeed in cushioning future price falls.
8. Despite arguments to the contrary, a number of observers voice skepticism that the price of a company’s stock is closely tied to efficiency.
9. The bubble may not have burst but it will burst eventually.
10. Sophisticated computer systems to scrutinize trading activity were in use in the 1990s.

◇ EXERCISE 4

Assignment

Editorial writers often use the word *speculators* as a term of strong disapproval, implying that those who engage in speculation are parasites who produce no benefits for society and often cause considerable harm.

Do you agree or disagree with this judgment?

Could it be argued that *speculators* perform vital economic functions?

Write an essay of about 300 words in answer to these questions.

CHAPTER 6

BITCOIN AND MONEY

◇ Useful words and concepts

virtual currencies

scholarly

money

legal tender

jurisdiction (1)

peer-to-peer network

receipt

performed

web application

wallet

salient

feature

ownership

blockchain

user community

provide

computational

mining

match

widespread

double coincidence of wants

willing

trade

needs and wants

currently

businesses (2)

giants

online travel portal

online retailers

e-commerce

retail shops

purchase

embody

ongoing

exchange value

exceeded

provides for

currency

to what extent

state-sanctioned currency

data

investment assets

medium

supply

non-cash means of payment

market capitalization

compete (with)

Instructions For Study

1. Turn to the **definitions** following the text *Bitcoin and Money*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to improve your language skills.

Bitcoin and Money

Virtual currencies, especially bitcoins, have attracted much public attention and scholarly interest over recent years, particularly concerning whether bitcoins could be qualified as “money” despite the fact that **they do not have legal tender status in any jurisdiction**.

The Bitcoin System

Generally speaking, bitcoin is an online payment system that can be used to transfer electronic units of value among users of a peer-to-peer network. The nominal unit of the network is referred to as Bitcoin or BTC. The transmission and receipt of bitcoins is performed by a software or web application called “wallet”, which stores all the information necessary to transact bitcoins.

The most salient feature of the bitcoin network compared to usual bank-to-bank transfers is that the proof and transfer of ownership of a bitcoin is performed **without the involvement of a designated third party**. The ownership of a Bitcoin-unit is determined on the basis of a publicly accessible transaction history called the “blockchain”. In order to add transactions to the blockchain and thus confirm them irrevocably within the bitcoin network, the user community needs to provide their computing power. This is done by users performing cryptographic tasks using appropriate software tools. If the result of that task lies within a certain parameter, a “block” involving new transactions will be added to the blockchain and the person finishing the computational work **required to validate those transactions** will be credited with a certain number of bitcoins. This primary form of acquisition of bitcoins is commonly referred to as “mining”. As the number of bitcoins generated per block is set to decrease geometrically, **the possible amount of circulating bitcoins is limited to approximately 21 million units**. However, a single Bitcoin-unit can be subdivided into eight decimal places.

Bitcoin and Money

Money is an instrument of economic organization. It differs from traditional means of exchange in that it does not need to match the individual and immediate needs of the exchange partner. Due to its widespread acceptance, money eliminates the need for a “double coincidence of wants” between two transacting parties because, depending on the particular circumstances, everyone is willing to trade goods or services for money in some greater or lesser quantity. This results **in easier and less expensive trading**. Any item used as money takes on three basic functions: It has to work as a *medium of exchange*, a *store of value*, and a *unit of account*.

Medium of Exchange

The most important function of money is that it can facilitate transactions in an attempt to satisfy the needs and wants of the person holding it. The functional character of a medium of exchange thus depends on its widespread acceptance among transacting parties.

According to some recent press reports, bitcoins are currently accepted by over 500,000 businesses worldwide. Among them are the computer giants Dell and Microsoft as well as the online travel portal Expedia. However, out of the leading 500 online retailers, only a small minority currently accepts bitcoins. **Apart from e-commerce, bitcoins also enjoy some minor acceptance in everyday commercial activity.** For example, in the so-called “Bitcoin-Kiez” in Berlin’s Kreuzberg district, around 20 to 25 retail shops and companies accept bitcoins as a means of payment for goods and services.

Store of Value

In order to act as a medium of exchange, an item must hold its value over time. **This allows one to acquire this item one day and then use it to purchase goods and services at a later date.** Obviously, bitcoins embody value in so far as there continues to be an ongoing demand. Since November 2013 the exchange value of bitcoins towards the U.S. Dollar has always exceeded USD 150, and in December 2017 it reached a high, exceeding USD 19,000.

Unit of Account

Money functions as a unit of account in that it provides for a common denominator to designate the prices of the goods or services being exchanged. The value of every good and service can be expressed in terms of a monetary unit, i.e. a national currency unit such as the Euro or the U.S. Dollar. The Bitcoin-system also provides for a **nominal unit (BTC) that can be used to quantify the values of goods or services and make them comparable.** However, the value of a **Bitcoin-unit is more volatile than practically any other state-sanctioned currency.**

Prospects for virtual currencies

It is not currently possible to say whether and to what extent acceptance of bitcoins or other virtual currencies will increase in the future. Empirical data indicates that, in most cases, bitcoins are used to acquire investment assets rather than as a means for transactions in goods and services. As the supply of bitcoins is not subject to the control of a central authority and the possible amount of units in circulation is limited to approximately 21 million, bitcoins and other virtual currencies could offer an alternative to conventional state-sanctioned banking systems. Like in the case of gold, bitcoins obtain their value from the fact that they are not reproducible in unlimited quantities but – unlike physical items – offer most of the cost and flexibility advantages that go along with using non-cash means of payment. In view of a worldwide capitalization of virtual currencies to the amount of approximately five billion U.S. Dollars, as at January 2015, the number of units in circulation will, however, not provide a solid basis to compete with national currencies¹.

Excerpt from: Benjamin Beck, *Do Bitcoins Fulfil the Classic Economic Functions of Money? An Analysis and its Legal Implications*, *Lichter-FilmFest Frankfurt International Program* (2016)

1. The market capitalization of bitcoins stands approximately at USD 159 billion, as at 8 May 2018. The price per bitcoin unit currently stands at \$9,354

◆◆ DEFINITIONS ◆◆◆

- ◆ **virtual currencies** types of unregulated, digital money, which act as an alternative means of payment; *digital currencies, cryptocurrencies*
- ◆ **money** an asset that is generally accepted as a medium of exchange
- ◆ **legal tender** money which, by law, must be accepted in payment of a debt or obligation
- ◆ **jurisdiction (1)** territory to which the authority of a court, tribunal or other official organisation to make legal decisions and pass judgments applies
- ◆ **peer-to-peer network** equal access system whereby all connected computers can behave as clients or servers as required, and can share resources without a client-server infrastructure; *P2P network*
- ◆ **web application** a software program that utilizes web browsers and web technology to perform tasks over the Internet; *web app*
- ◆ **wallet** a software program where Bitcoins are stored; *digital wallet*
- ◆ **ownership** legal right of possession; *proprietorship*
- ◆ **blockchain** a distributed (or shared) ledger that authenticates and records every bitcoin transaction
- ◆ **mining** the process by which bitcoin transactions are verified and added to the public ledger (blockchain) and also the means through which new bitcoin are released; *bitcoin mining*
- ◆ **double coincidence of wants** when each party to the exchange of one economic good or service for another without the use of a medium of exchange such as money, must be able to offer something which the other wants
- ◆ **businesses (2)** commercial or industrial organizations that aim at making a profit by through their activities; *business enterprises, firms*
- ◆ **giants** companies which are among the leaders in a particular sector of activity; *major players*
- ◆ **online travel portal** an Internet site providing access or links to other sites enabling customers themselves to arrange bookings for trips, accomodation and entertainment without necessarily going through travel agents
- ◆ **online retailers** e-commerce businesses which sell goods in small quantities through the Internet directly to the final consumer
- ◆ **e-commerce** buying and selling conducted through the Internet; *online business, online commerce*
- ◆ **retail shops** stores at the end of the distribution chain, which generally buy a product from a wholesaler in order to sell it to the final consumer; *retail outlets, retail stores*
- ◆ **exchange value** in foreign exchange, the quantified worth of one currency in terms of another
- ◆ **currency** the banknotes and coins in circulation in a country's economy used as a medium of exchange
- ◆ **state-sanctioned currency** money which is accepted as legal tender by a government
- ◆ **investment assets** tangible or intangible items obtained for producing additional income or held with the expectation that the items' value will increase over time
- ◆ **medium** a means by which something is accomplished
- ◆ **supply** quantity of something available at a given time
- ◆ **market capitalization** total value of bitcoins in circulation expressed in US dollars
- ◆ **compete (with)** strive to outdo another in business

◆◆ **EXERCISES** ◆◆◆

◇ EXERCISE 1

Comprehension

True / False Circle the correct choice and justify your answer

- | | |
|--|-------|
| 1. Bitcoins can undoubtedly be considered as “money”. | T / F |
| 2. The proof and transfer of ownership of a bitcoin require the involvement of a third party. | T / F |
| 3. There is no upper limit to the acquisition of bitcoins. | T / F |
| 4. Trading without money is likely to be more difficult between two transacting parties if there is not a “double coincidence of wants”. | T / F |
| 5. Bitcoins meet the criterion of acceptance as a medium of exchange between businesses only in the area of e-commerce. | T / F |
| 6. The ongoing demand for bitcoins is evidence that they are viewed by users as a store of value. | T / F |
| 7. The author believes that bitcoins are able to fulfill the basic economic functions of money. | T / F |
| 8. Bitcoin’s volatility is not viewed by the author as a drawback. | T / F |
| 9. Users of bitcoin or of other virtual currencies do not see them primarily as a convenient means of exchange. | T / F |
| 10. Bitcoins are compared to gold because they are not reproducible in unlimited quantities. | T / F |

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate terms** to fit each sentence

- It seems premature to characterize bitcoins as “real money” merely because of their growing acceptance by
- There is no doubt that have been far more volatile than gold or most national currencies.
- The use of bitcoins is considered legal in most
- Bitcoin cannot be deposited in a bank; instead it must be held in “digital ”.
- January 13, 2018 marked a milestone for Bitcoin when 16.8 million bitcoins or 80 percent of the entire Bitcoin were mined.
- Bitcoin’s decentralized nature enables small to expand and open their doors to international buyers.
- The acceptance of bitcoins is obviously much lower than with or other national currencies.
- During 2013, Bitcoin’s towards the dollar was about 10 times more volatile than that of the euro, yen or any other major currency.
- The does not lend itself easily to making intellectual-property claims.
- In January 2018, Bitcoin’s amounted to only about one third of the crypto- currency market.

(B) Fill in the blanks in the following texts with the words from the lists below

spending / currency / money / use / tax / virtual / property / legal / fungible / play

Legal Classification of Bitcoin

Although the (1) of bitcoins is considered (2) in most jurisdictions, the role (3) currencies will (4) in the future will, among other things, depend on their precise legal classification. For example, now that the Internal Revenue Service¹ has stated that it will treat Bitcoin as (5) rather than a (6) for U.S. federal tax purposes, a person (7) bitcoins will have to figure out which particular bitcoin he or she wants to spend, and what the respective (8) treatment will be. One consequence of this might be that bitcoins are no longer (9), which makes them unworkable as (10).

1. U.S. tax department

primary / store / central / volatile / maintain / stability / remains / currency / aims / national

Price Stability

There is no doubt that bitcoins have been far more (1) than gold or most (2) currencies. The question that (3) is how far the quality of a (4) of value depends on absolute (5). By comparison, the stability of a country's (6) is one of the primary (7) of many, if not all, (8) banks. For example, Article 127 of the Treaty on the Functioning of the European Union (TFEU) states that the (9) objective of the European System of Central Banks (ESCB) shall be to (10) price stability.

◇ EXERCISE 3

Grammar

Infinitive or Gerund?

Complete the following sentences using the *infinitive* or the *gerund*

1. Money is supposed to (*serve / serving*) three purposes: it functions as a medium of exchange, a unit of account, and a store of value.
2. Some economists question the reasons for (*qualify / qualifying*) Bitcoin as money.
3. Recent reports suggest that some firms have chosen to (*seek / seeking*) patent protection on improvements to the blockchain.
4. It makes sense for smaller business customers to (*use / using*) bitcoins in connection with online sales.
5. For an item to act as a medium of exchange requires (*hold / holding*) its value over time.
6. One of the primary aims of a central bank is (*maintaining / maintain*) the stability of its national currency.
7. Bitcoin's volatility in its exchange rate with the dollar has made economists (*question / questioning*) its reliability as a medium of exchange.
8. Using bitcoins to (*launder / laundering*) money is a criminal offence.
9. The fact that very few patents have been issued so far hasn't stopped firms from (*claim / claiming*) ownership for blockchain innovations.

10. Many companies that have a stake in Bitcoin's success are looking forward to (*benefit / benefitting*) from regulation to enhance the currency's credibility.

◇ EXERCISE 4

Assignment

Bitcoin's extreme volatility and the upper limit of 21 million coins in circulation have been described as "fatal economic flaws"¹.

It can nonetheless be argued that there are advantages to using Bitcoin as a medium of exchange.

Find out what economists say about digital currencies and draw up a list of their advantages and drawbacks.

Debate the issue, dividing the class into proponents and opponents of virtual currencies.

1. David Yermack, *www.technologyreview.com*, February 2014

CHAPTER 7

EMPLOYMENT IN THE SHARING ECONOMY

◇ Useful words and concepts

employment
sharing economy
on-demand platforms
freelancers
generalists
keep track of
full-time job
unemployed
microentrepreneurship
gigs
self-employment
muddle
employees
labor department
handcrafted
work for profit
BLS
survey
underemployed
software contractor
on the side
investment banker
rents out
impacts
GDP
metrics

job quality
income
work-life balance
commute
part-time jobs
sustainability
labor disputes
filed
class action
maintain
contractors
labor lawyer
user ratings
guidelines
city managers
somewhat
employee-like
microbusinesses
labor
case
policymakers
extra
designing
unleashing
innovation
workplace protections

unfolding
labor secretary
share-the-scrap
posits
matched
rated
reliability
on-demand workers
dystopian
wages
benefits
job insecurity
safety net
monitored
empowered
take control of
unprecedented
scale
gateways
average
schedule
eventually
contingent on
businesses (2)
consumers
shaped by

Instructions For Study

1. Turn to the **definitions** following the text *Employment in the Sharing Economy*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to improve your language skills.

Employment in the Sharing Economy

As we move into an economy where work is decomposed into tasks done around the world, performed in people's spare time or through on-demand platforms, and services are provided by freelancers working through multiple platforms or offered by generalists who may be specialists in something else, our systems to keep track of how much employment there is in the economy start to get seriously challenged. For most of the second half of the 20th century, most Americans worked a single profession at a time, as a full-time job. If they lost that job, they were out of work until they found another full-time job. In today's economy, being employed or unemployed is becoming increasingly difficult to measure as microentrepreneurship, multiple gigs, freelance work, and fluid self-employment muddle traditional definitions and measures.

As a growing number of individuals no longer conform to the 20th century ideal of "having a job" and as more employees become microentrepreneurs in their spare time, the line between losing and gaining "jobs" becomes increasingly difficult to measure.

How then do we measure employment in the sharing economy?

A natural question in the United States is whether the unemployment numbers being collected by the Labor Department are sophisticated enough to capture these changes. Consider someone who used to work a full-time job but is now unemployed and drives an Uber, or provides services on TaskRabbit, or sells handcrafted goods on Etsy. If that person reports this new work for profit in a response on a BLS survey, they would be continued to be counted as employed. However, the numbers reported by the BLS don't capture the additional "employment" or "work" generated by *underemployed* people who were already working at least one hour a week (like a software contractor who now only does Lyft on the side). Additionally, the BLS surveys don't fully capture people who contribute to the sharing economy while holding regular full-time jobs (an investment banker who rents out her apartment periodically on Airbnb).

Clearly, we need to rethink the way we add up all the work that is being done in the economy. Just as the impacts of the sharing economy have proven difficult to fully capture using existing economic measures, such as the GDP, creation of work in the sharing economy cannot be easily understood using established employment measures. We also need to develop metrics that take into account job quality, income stability, and work-life balance. A full-time job that requires a long and expensive daily commute may in fact be less desirable than two part-time jobs carried out from home. Whatever new metrics are developed, one thing is clear - just as our economic measures need to take other factors into account (work-life balance, sustainability, equality), so do our employment measures.

Labor Disputes

The 160,000 drivers who filed a class action against Uber maintain that the platform wants the cost advantages of working with contractors while simultaneously maintaining the control of working with employees. According to Shannon Liss-Riordan, a labor lawyer, the performance of Uber drivers is

“managed” based on user ratings, and they receive guidelines from city managers directing them toward high-demand areas on a daily basis, so one might argue that they are somewhat employee-like. But Uber drivers are also microentrepreneurs who own their vehicles and pay for their own gas and repairs while building their transportation microbusiness.

The judges’ reactions to this case suggest that established tests to determine what constitutes employment may no longer hold in the sharing economy. New labor definitions are needed for a world of crowd-based capitalism. As the case against Uber reveals, this future has arrived well in advance of the policy needed to support it.

Policymakers have started to take note. In a July 2015 campaign speech, Hilary Clinton noted both opportunities and challenges:

Many Americans are making extra money renting out a spare room, designing websites... even driving their own car. This “on-demand” or so-called “gig economy” is creating exciting opportunities and unleashing innovation, but it’s also raising hard questions about workplace protections and what a good job will look like in the future.

But what exactly do these opportunities look like? On one side of the argument, there are the Liss-Riordans of the world who may consider the future of work - at least as it is currently unfolding in the sharing economy- as a near-certain race to the bottom. Former labor secretary and University of California professor Robert Reich asserts that a better name for the sharing economy would be the “share-the-scrap economy,” Reich posits: “Customers and workers are matched online. Workers are rated on quality and reliability. The big money goes to the corporations that own the software. The scraps go to the on-demand workers.” In this dystopian view of the future, work will be defined by low wages, the elimination of benefits, and high levels of job insecurity. People will work longer hours for less money, income will be fragmented, the safety net will be a distant memory, and work environments will have less ideal and less carefully monitored conditions.

On the other hand, there are sharing economy enthusiasts who see the future world of work as one defined by increased flexibility, fluidity, innovation, and creativity. In this utopian future, individuals will be empowered entrepreneurs who take control of their own destinies on an unprecedented scale. Innovative new products and services will flow from platforms that are gateways to innovation. Average workers will work fewer hours on a more flexible schedule from wherever they want and make more money doing work that they choose.

Of course, both camps will eventually be right to some degree. Whether or not the sharing economy proves detrimental or empowering to workers in the long-term will be contingent on a number of factors - factors that businesses, workers, and consumers will determine to varying degrees, that will be shaped by policy choices we make over the coming decade.

Sundararajan, Arun., *The Sharing Economy: The End of Employment and the Rise of Crowd-Based Capitalism*, 979
word excerpt from pages 175-176, © 2016 Arun Sundararajan, by permission of the MIT Press.

◆◆ DEFINITIONS ◆◆◆

- ◆ **employment** the occupation, business, trade or profession for which you are paid
- ◆ **sharing economy** an economic model based on people taking underutilized assets (resources) and making them accessible online to a community, for free or for payment, leading to a reduced need for ownership of those assets; *crowd-based capitalism, on-demand economy, gig economy*
- ◆ **on-demand platforms** online platforms where independent sellers can offer goods or services to customers; *on-demand work platforms*
- ◆ **freelancers** individuals working on a contract basis for a variety of companies, as opposed to working as an employee for a single company
- ◆ **generalists** people who do not specialise in a particular area of knowledge or expertise
- ◆ **full-time job** a position which requires an employee to work for the whole of each normal working week rather than for part of it
- ◆ **unemployed** the situation of being jobless when willing and able to work
- ◆ **microentrepreneurship** refers to the organizational, managerial and financial skills required for a small-scale entrepreneur to operate a microbusiness successfully, especially a new venture
- ◆ **self-employment** a situation in which an individual works for himself, such as running a small business of his own
- ◆ **employees** individuals paid a salary or a wage for working for an organization
- ◆ **labor department** a cabinet-level department of the U.S. federal government responsible for occupational safety, wage and hour standards, unemployment insurance benefits, reemployment services, and some economic statistics
- ◆ **work for profit** job activity in which a person aims to earn an income as an entrepreneur rather than be paid a wage
- ◆ **BLS (Bureau of Labor Statistics)** the principal fact-finding agency for the U.S. federal government in the broad field of labor economics and statistics
- ◆ **survey** the collection and analysis of data relating to people's opinions, habits or practices
- ◆ **underemployed** a situation in which someone has a job but is working fewer hours than they wish or is doing a job which does not fully utilize their ability or capacity
- ◆ **software contractor** a self-employed developer who has the ability to design and implement software solutions from start to finish
- ◆ **investment banker** an individual who works in a financial institution that is in the business primarily of raising capital for companies, governments and other entities
- ◆ **rents out** allows people to use property temporarily in exchange for a one-off payment or regular ones
- ◆ **GDP (Gross Domestic Product)** the total monetary value of the overall output of goods and services produced annually within a country's geographic borders
- ◆ **metrics** standards of measurement by which efficiency, performance, progress, or quality of a plan, process, or product can be assessed
- ◆ **income** earnings people receive in return for providing their labour
- ◆ **work-life balance** the optimal arrangement of an individual's on-the-job and private time to facilitate health and personal satisfaction without negatively impacting productivity and professional success
- ◆ **commute** trip made every day to get to work
- ◆ **part-time jobs** occupations in which employees work for part of each week rather than for the whole of it

- ◆ **sustainability** development that meets the needs of the present, without compromising the ability of future generations to meet their own needs; *sustainable development*
- ◆ **labor disputes** disagreements between employees and employers over terms and conditions of employment; *industrial disputes*
- ◆ **filed** lodged officially
- ◆ **class action** a lawsuit in which a group of people with the same or similar injuries caused by the same product or action sue the defendant as a group
- ◆ **contractors** entrepreneurs under contract to provide goods and services to clients
- ◆ **labor lawyer** an advocate who represents both employers and employees in workplace disputes and negotiations
- ◆ **user ratings** scores or measurements of how good or popular a service is according to those who use it
- ◆ **guidelines** official instructions issued by an organization on how to do something
- ◆ **city managers** executive staff in charge of instructing self-employed Uber drivers about which urban areas to focus on to pick up customers
- ◆ **microbusinesses** very small-scale enterprises, especially new ventures; *micro-enterprises*
- ◆ **labor** human factor of the production process; *work*
- ◆ **case** suit or action in law or in equity
- ◆ **policymakers** people who are responsible for or involved in formulating plans and ideas, especially those to be implemented by government; *decision makers*
- ◆ **innovation** process by which an idea or invention is brought onto the market
- ◆ **workplace protections** on-the-job employee rights and entitlements which are protected by law
- ◆ **labor secretary** a member of the Cabinet of the United States who heads and exercises control over the U.S. Department of Labor, and who enforces and suggests laws involving unions, the workplace and all other issues involving any form of business-person controversies; *secretary of labor*
- ◆ **on-demand workers** independent contractors employed by companies such as Uber or Lyft
- ◆ **wages** workers' remuneration for the services of their labor; *pay*
- ◆ **benefits** additional advantages provided by an employer to supplement an employee's regular pay, such as a bonus, free health insurance, a pension, company car, luncheon vouchers; *fringe benefits, perks*
- ◆ **job insecurity** the situation in which employees lack the assurance that their jobs will remain stable over the short, medium or long term
- ◆ **safety net** cash and in-kind transfers targeted to low-income individuals and families with the goal of protecting them from poverty; *social safety net*
- ◆ **empowered** having been provided with the means to achieve something
- ◆ **take control of** to win enough of a company's capital to make all the important decisions about how it is run; *gain control of*
- ◆ **scale** the extent to which control of something is taken
- ◆ **schedule** the days and hours an individual works on a weekly basis; *work schedule*
- ◆ **businesses (2)** commercial or industrial organizations that aim at making a profit through their activities; *companies, business enterprises*
- ◆ **consumers** buyers of goods and services who use them to satisfy their needs

◇◇ EXERCISES ◇◇◇

◇ EXERCISE 1

Comprehension

Circle the alternative (a), (b) or (c) that most fully and correctly completes the statements below

1. Keeping track of employment in the economy
 - (a) is getting easier
 - (b) has become more complex
 - (c) remains a straightforward task
2. In the past, most Americans had
 - (a) a profession as well as a job
 - (b) a spare-time job
 - (c) a full-time job
3. The 20th century ideal was
 - (a) to hold down the one job
 - (b) to work for oneself
 - (c) to run a small business
4. Someone driving for Uber
 - (a) has employee status
 - (b) is in employment
 - (c) is deemed unemployed
5. A doctor who creates and sells handmade items on Etsy on the side
 - (a) is not contributing to the sharing economy
 - (b) may not be fully captured in BLS surveys
 - (c) is counted as holding two full-time jobs
6. The author believes that
 - (a) work-life balance is a key factor in assessing the impacts of work in the economy
 - (b) doing two part-time jobs from home is preferable to holding a single full-time job
 - (c) commuting is more pleasant in a sharing economy
7. Uber drivers claim that
 - (a) they are not given clear instructions by the platform
 - (b) excessive control is exerted over them
 - (c) the platform wants to have it both ways
8. The Uber case shows that
 - (a) crowd-based capitalism is not popular with drivers
 - (b) existing definitions and tests of employment aren't a good fit for the sharing economy
 - (c) established tests for classifying workers remain fully relevant
9. The Liss-Riordans of the world
 - (a) remain indifferent to the job opportunities emerging in the sharing economy
 - (b) are upbeat about job opportunities in the sharing economy
 - (c) share professor Reich's position on the sharing economy
10. Sharing economy proponents
 - (a) favour entrepreneurship over employee status
 - (b) agree with the dystopian view of the future
 - (c) believe average workers will benefit less in the future world of work

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate terms** to fit each sentence

1. Some labor lawyers say Uber drivers are being incorrectly classified as rather than as employees.
2. The Uber driver population does not seem to regard full-time as the Holy Grail.
3. In December 2015, a California court certified the Uber case as a
4. questions about people's jobs often lead them to under-report what they're doing.
5. Economists ask whether the sharing economy will ultimately represent the rise of a new form of self-employment:
6. Critics say the sharing economy will leave people working more for less money and minimal
7. Many of Airbnb's hosts are homeowners who are just looking to top off their retirement
8. One of the main criteria for determining whether workers are is whether or not they get benefits.
9. One estimate put the count of in the United States at a remarkable 53 million in 2015, about one in four of whom had a full-time job.
10. An obvious objection to a based on a universal minimum income is the fear that it lowers people's incentive to work.

(B) **Find** a word or expression from the text to complete the answers to the questions below

1. Who are the deliverers of services in the sharing economy? They are freelancers operating via
2. Traditionally, when an American lost his job, did he become self-employed?
No, he was until he took on a new full-time job.
3. Why is it difficult to measure employment in the sharing economy?
Because the figures collected by are not always reliable.
4. Who are the people it is difficult to capture in employment surveys?
They may be people or those working in a second job in addition to their regular one.
5. Why would someone let their flat from time to time?
To earn income
6. Does the author believe in established metrics?
No. He believes they don't capture the impacts of the sharing economy and that they neglect other key
7. What did Uber drivers argue?
They maintained that if Uber wanted to control their work it should offer them a
8. Are policymakers taking note of the need to address the challenges of the sharing economy?
Yes, Hilary Clinton has spoken of opportunities and challenges created by
9. What do the critics of the sharing economy maintain?
That the will end up with the scraps whilst the profits will be captured by big business.
10. What do the proponents of the sharing economy assert?
They see a utopian world which will empower individuals, unleash innovation, and improve the environment

◇ EXERCISE 3

*Grammar***Tenses**

Circle the correct form of the verb in the following text

The New Social Safety Net

As we wait for a new categorization of work to take shape, we (*continued / continue / will continue*) (1) to journey into an economy where a larger and larger proportion of the population (*didn't seek / don't seek / won't seek*) (2) employment as salaried workers. Important worker protections like health coverage, insurance against workplace injuries, paid vacations, a stable income, and other safeguards often provided or guaranteed by large institutional employers (*needed / need / will need*) (3) to come from other sources. This challenge was summarized by Senator Mark Warner: "So these workers, even if they are doing very well, (*existed / exist / will exist*) (4) on a high wire, with no safety net beneath them. That may work for many of them - until the day that it (*didn't work / doesn't work / won't work*) any longer (5). That's also the day that taxpayers could be handed the bill, which is why Washington (*needed / needs / will need*) (6) to start asking some tough policy questions."

In October 2015, a diverse group of individuals (*signed / sign / will sign*) (7) a letter proposing portable benefits for sharing economy workers. The letter (*set out / sets out / will set out*) (8) a number of principles to guide the creation of these portable benefits. These (*included / include / will include*) (9) a call for the model to be:

Independent: Any worker should be able to access a certain basic set of protections.

Portable: A person should be able to take benefits and protections with them.

Universal: All workers should have access to a basic set of benefits regardless of employment status.

Supportive of innovation: Businesses should be empowered to explore and pilot safety net options regardless of the worker classification they (*utilized / utilize / will utilize*) (10).

◇ EXERCISE 4

Assignment

1. In researching the sharing economy, Arun Sundararajan focuses on platforms such as Uber, TaskRabbit, Lyft, Airbnb and Etsy. **Explore** the activities of these platforms (and others) and **prepare** notes for a discussion in class on the following question:

"Despite the lack of a consensus on a definition of 'sharing economy', how might we define it, anyway?"

2. **Write** a short composition of about 300 words discussing the following statement:

"What is new in the sharing economy, is that you are not helping a friend for free, you are providing these services to a stranger for money." (Arun Sundararajan)

CHAPTER 8

TRADE UNIONS IN BRITAIN

◇ Useful words and concepts

trade unions

bitter

struggles

right

trade guilds

social clubs

unemployment

closely

Labour Party

pay

working conditions

membership

skilled workers

unskilled workers

white-collar workers

range

businesses (1)

professional associations

Law Society

Police Federation

British Medical Association

subscriptions

elect to

latter

funding

provide for

better-off

strike pay

official strikes

sanctioned

ranging from ... to

political spectrum

Unison

public service workers

Unite

Transport and General Workers' Union

victimization

affiliated to

Trades Union Congress (TUC)

umbrella organization

perform

deregulated economy

workforce

Conservative legislation

enforce

secret voting

strikes

union officials

pickets

premises

secondary action

fined

wage demands

militancy

arrangements

workplaces

redundancy

opinion polls

respondents

trade unionists

concern

New Labour

Instructions For Study

1. Turn to the **definitions** following the text *Trade Unions in Britain*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to improve your language skills.

Trade Unions in Britain

Trade unions obtained legal recognition in 1871 after long and bitter struggles. The fight for the right of workers to organize themselves originated in the trade guilds of the fourteenth century and later in social clubs which were formed to give their members protection against sickness, unemployment and political oppression.

The modern trade unions are associated (if no longer so closely) with the *Labour Party* and campaign for better pay, working and health conditions for their members. The trade-union movement is highly organized, with a membership of 6 million people in 2012. Although this represents a fall from 13 million in 1979, the trade unions are among the biggest organizations in the country.

Today there are some 167 trade unions and professional associations of workers, which vary considerably in size and influence. They represent not only skilled and unskilled workers in industry, but also white-collar workers in a range of businesses, companies and local and central government. Other professional associations like the *Law Society*, the *Police Federation* and the *British Medical Association* carry out similar representational roles for their members.

Members of trade unions pay annual subscriptions to their unions and frequently to the *Labour Party*, unless they elect not to pay this latter amount. The funding provides for union activities and services such as legal, monetary and professional help. The better-off unions are able to give strike pay to members who are taking part in “official strikes”, which are those legally sanctioned by members. Trade unions vary in their wealth and in their political orientation, ranging from the left to the right wing of the political spectrum.

Some unions admit as members only those people who work in a specific job, such as miners or teachers, while others include workers employed in different areas of industry or commerce. Some unions have joined with others in similar fields to form new unions, such as *Unison* (composed of public service workers, with 1.3 million workers). The largest in Britain at present is *Unite*, with 1.5 million workers, which was formed in 2007 and includes the powerful *Transport and General Workers’ Union (T&G)*. Workers may choose, without victimization, whether they want to belong to a particular union or none at all.

Some 58 trade unions are affiliated to the *Trades Union Congress (TUC)*, which was founded in 1867, serves as an umbrella organization to coordinate trade-union interests and tries to promote worker cooperation. It can exert some pressure on government (although this has now decreased) and seeks to extend its contacts in industry and commerce, with employers as well as workers. The *Scottish Trades Union Congress (STUC)* and the *Irish Congress of Trade Unions (ICTU)* perform a similar job for their members.

The influence of the TUC and trade unions (as well as their membership) has declined. This is due to unemployment; changing attitudes of workers to trade unions; the reduction and restructuring of industry; a deregulated economy; a more mobile workforce; and Conservative legislation under

Margaret Thatcher¹. Laws were passed to enforce secret voting by union members before strikes can be legally called and for the election of union officials.

The number of pickets allowed outside business premises has been reduced, secondary (or sympathy) action by other unionists is banned and unions may be fined by the courts if they transgress legislation. Such Conservative laws (which the previous Labour government accepted) and the economic climate have forced trade unions to be more realistic in their wage demands. However, pay claims are escalating again and there is increasing militancy among some union leaders. There are also arrangements for legal recognition of unions in those workplaces where a majority of workers want them and for consultation with workers in matters such as redundancy.

Public opinion polls in the past found that, while a large majority of respondents believed that unions are essential to protect workers' interests, a sizeable number felt that unions had too much power in Britain and were dominated by extremists. Half of trade unionists themselves agreed with this latter point of view and half disagreed. The concern over trade unions and their close relationship with Labour governments declined after the 'New' Labour election victory in 1997², but may increase again if the Labour Party again enter government.

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-
1. Conservative prime minister from 1979 to 1990
 2. Labour lost the 2010 parliamentary elections

 ◇◇ **DEFINITIONS** ◇◇◇

- ◆ **trade unions** workers' organizations set up to defend the rights and interests of their members; *labour unions, unions*
- ◆ **right** a moral or legal entitlement to do something or have it
- ◆ **trade guilds** associations of tradesmen or artisans which controlled production of a particular commodity or service and regulated the admission of members; *guilds*
- ◆ **unemployment** the situation of being jobless when willing and able to work
- ◆ **Labour Party** left-of-centre political party, supported by the trade unions, the working class and part of the middle-class
- ◆ **pay** workers' remuneration for the services of their labor; *wages*
- ◆ **working conditions** factors affecting the work environment, such as hours of work, safety arrangements, fringe benefits
- ◆ **membership** number of people who belong to an organization
- ◆ **skilled workers** those who have acquired, through training or apprenticeship, the special abilities required to do certain work
- ◆ **unskilled workers** those who do work that requires little or no training
- ◆ **white-collar workers** office workers, clerical staff, managerial and professional people
- ◆ **businesses (1)** types of activity taking place in a profit-oriented organization such as companies or shops
- ◆ **professional associations** organizations formed to bring together people engaged in the same occupation, to control entry, to maintain standards, to represent the profession and to further its interests
- ◆ **Law Society** the representative body for solicitors in England and Wales
- ◆ **Police Federation** the statutory staff association for police Constables, Sergeants, Inspectors and Chief Inspectors in the 43 territorial police forces in England and Wales
- ◆ **British Medical Association** the professional association and registered trade union for doctors in the United Kingdom
- ◆ **subscriptions** the contributions that a union member pays regularly to his organization; *dues*
- ◆ **funding** money collected by an organization for a particular purpose
- ◆ **strike pay** an allowance paid out of union funds to members on strike
- ◆ **official strikes** those that take place in accordance with union instructions
- ◆ **sanctioned** duly approved of by a vote of union members
- ◆ **political spectrum** a classification of political orientation ranging from the far right to the far left
- ◆ **Unison** the UK's second largest trade union representing 1.3 million full-time and part-time staff who provide public services, although they may be employed in both the public and private sectors
- ◆ **public service workers** those who are employed in the sector of a nation's economy that covers government and local authority activities; *civil servants, public servants*
- ◆ **Unite** Britain's biggest union with 1.42 million members in every type of workplace
- ◆ **Transport and General Workers' Union (T&G)** largest British labour union throughout most of the twentieth century until its merger with *Unite* in 2007
- ◆ **Trades Union Congress (TUC)** central trade union confederation to which most trade unions in England and Wales belong
- ◆ **deregulated economy** one in which the government has removed controls or rules from business activity
- ◆ **workforce** the total number of workers available for employment in a country; *labour force*

- ◆ **Conservative legislation** refers to laws passed by successive right-of-centre governments established after three Conservative party electoral wins between 1979 and 1987
- ◆ **secret voting** a ballot in which all votes are cast in a way that at the time of voting no one else knows who the other voters chose; *secret ballot*
- ◆ **strikes** organised refusals to work by employees in an attempt to force their employers to meet their demands for higher pay, shorter hours, or better working conditions; *industrial action*
- ◆ **union officials** elected or appointed officers of trade unions who represent members and organize union business
- ◆ **pickets** striking workers stationed at factory gates to persuade others not to enter the premises
- ◆ **secondary action** when a trade union calls out its workers in support of industrial action by unionists elsewhere; *sympathy action*
- ◆ **fined** ordered to pay a sum of money to the state in punishment for illegal activity or behaviour
- ◆ **wage demands** union requests for improved pay; *pay claims*
- ◆ **redundancy** loss of a job because the latter has ceased to exist or because there is no longer any work for the employee; *layoffs*
- ◆ **opinion polls** surveys aimed at determining public opinion on an issue, idea, person or product
- ◆ **New Labour** denotes the more right-wing/social democratic trend in the Labour Party, which became the dominant political force in the UK for more than a decade under Tony Blair's premiership (1997-2007)

◆◆ **EXERCISES** ◆◆◆

◇ EXERCISE 1

Comprehension

True / False Circle the correct choice and justify your answer

- | | |
|--|-------|
| 1. Unions give financial backing systematically to their members on strike. | T / F |
| 2. The economic climate has put pressure on workers to tone down wage demands. | T / F |
| 3. The TUC is primarily involved in the organizing of blue-collar workers. | T / F |
| 4. Picketing outside plants which are not involved in a dispute is prohibited. | T / F |
| 5. Trade union members have to pay into the Labour Party. | T / F |
| 6. Deregulation has been a factor in union decline. | T / F |
| 7. Secret ballots are required before strike action can be legally taken. | T / F |
| 8. Recent Labour governments have not generally accepted Conservative legislation. | T / F |
| 9. Workers do not have any say at all in issues of redundancy. | T / F |
| 10. Polls show that most people believe that workers' interests are not necessarily safeguarded by trade unions. | T / F |

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate term** to fit each sentence

1. Trade guilds and social clubs were originally set up to protect their members against sickness and
2. Trade unions represent workers across a broad spectrum of

3. The strikers said they would not go back to work until their were met.
4. The concern over trade unions and their close relationship with the has declined since the 'New' Labour election victory in 1997.
5. Britain historically seemed to be prone to industrial disputes, with regular in the 1980s.
6. Strike action by can be damaging to the economy and has been used as an economic and political weapon in the past.
7. is still affecting many thousands of workers although the economy is picking up.
8. were stationed outside the premises to prevent any deliveries.
9. Many industrial disputes are over pay and
10. Unison mainly represents

(B) Find words or expressions in the text that mean the following

1. number of people belonging to an organization
2. measures in place enabling something to happen or be possible
3. choose to do something
4. ordered to pay a sum of money as punishment for doing something illegal
5. worry about a situation
6. a number of different things of the same general kind
7. a person who replies to a survey or to a set of questions
8. officially approved of
9. buildings and land occupied by a company
10. make sure a law or rule is obeyed

◇ EXERCISE 3

Grammar

(A) Adverbial phrases of time

Make sentences using how long, for, since and ago in the correct word order

Pay attention to choosing the **correct form** of the verb. The subject of each sentence is in **bold type**. The verb is in *italics*.

1. **the union** / industrial action / December / *involved* [since]
2. *going on* / **that strike** [how long]
3. several decades / compulsory / **secret ballots** / *be* [for]
4. outside the premises / **pickets** / *stationed* [how long]
5. TUC / **that union** / 1984 / *be affiliated to* [since]
6. *remained* / some years / unions / strong / still / for / **public support** [ago]
7. in the workplace / *declining* / a number of / **unions** / years [for]
8. legal recognition / almost / **unions** / 150 / *obtained* / years [ago]
9. **concern** / and / 1997 / links between / Labour / *diminished* / unions / over [since]
10. union / the / **Unite** / *be* / largest [how long]

◇ EXERCISE 4

Assignment

Debate the following statement, dividing the class into two equal groups – one is to defend the viewpoint expressed, and the other to refute it:

“Strike action by trade unions is damaging to the economy and is too often used as a political weapon.”

Then **write** a composition of about 300 words saying where you stand on the opinion that trade unions are essential if workers’ interests are to be protected.

CHAPTER 9

SOCIAL SECURITY IN BRITAIN

◇ Useful words and concepts

social security

expenditure

government spending

welfare

pensions

provides

range

Department of Work

and Pensions

public payments

contributory benefits

non-contributory benefits

National Insurance Fund

benefits

income tax

retirement

in need

awarded

claimants

disabled

means-testing

discretionary

income

assistance

state retirement pensions

employed

maternity pay

pregnant

statutory

sick pay

jobseeker's allowance

unemployed

income-related benefits

income support

capital

elderly

requirements

prescription medicine

tax credit

pay packets

earnings

extra

housing benefit

accommodation

child benefit

available

training

claim

grants

loans

social fund

apply

safety net

prevent

hardship

households

low-income threshold

dependent children

poverty line

average national income

accurate

figures

gather

concerned

employment

live off

lifestyle

supplement

overhauled

welfare benefits

trapped

phased in

designed

move off

merging

fraud

Universal Credit (UC)

subset

rolled out

implemented

Instructions For Study

1. Turn to the **definitions** following the text *Social Security in Britain*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**. Study them closely and pinpoint them in the text.
2. Use an **English** language dictionary to check the meanings (in context) of the other words in the list.
3. Do the exercises to improve your language skills.

Social Security in Britain

At 29 per cent of total expenditure, social security represented the largest single area of government spending over the period 2011-2012. The system, which is currently (2014) being reformed, provides a range of welfare and pensions payments to individuals and is organized by the Department of Work and Pensions (DWP) in most parts of the UK. It is also the country's biggest public service.

British people have since the mid-twentieth century received public payments in the form of contributory and non-contributory benefits. A contributory benefit means that the workers contribute financially to the National Insurance (NI) Fund and income tax system during their working lives and receive benefits on retirement and when in need. Non-contributory benefits are awarded to claimants who lack the necessary contributions and are disabled, ill or in need. Both types of benefit may involve means-testing of personal resources or discretionary considerations. Some 30 million people in the UK receive income and assistance from at least one social security benefit.

The contributory system provides, for example, relatively low state retirement pensions for employed men and women at 65 but rising to 66-67 and then possibly to 68 by 2050; maternity pay for pregnant working women; statutory sick pay for people who are absent from work because of illness or who become incapable of work; and a *Jobseeker's Allowance* for those who become unemployed (dependent upon people actively seeking work).

Income-related benefits are also provided by the state, after means-testing (examination of financial position). For example, *Income Support* depends upon capital and income and is given at various levels of eligibility to low-paid people in financial need, such as one-parent families, the elderly, the long-term sick and the unemployed. It covers basic requirements, although the sums are relatively low. It also covers prescription medicine, basic dental treatment, eye testing and children's school meals for children under 16. The *Working Families' Tax Credit* is a benefit whereby families with children and at least one parent in low-paid work receive a tax credit in workers' pay packets to increase their earnings. It includes the same extra benefits as *Income Support* and is means-tested on income and capital. A *Child Tax Credit* is a payment to support families with children and is dependent upon income and the number of children in a family unit. *Housing Benefit* is paid to people on *Income Support* and other low-income claimants and covers the cost of rented accommodation. A tax-free *Child Benefit* (a weekly £20.70 for the eldest or only child and £13.70 for additional children) is available to all mothers for each of her children up to the age of 20, if in approved education or training. This benefit is lost if one of the partners has an income of over £50,000 a year.

Previously, people on low incomes and in great need were also able to claim non-contributory single payments, such as the cost of clothes, cookers, fridges and children's shoes, in the form of grants or loans. This system was replaced by a Social Fund to which people have to apply for help.

Social security benefits do provide a degree of security for British people. They are supposed to be a safety net against urgent needs, but this does not prevent relative hardship. It is estimated that 13.5 million people with 1.8 billion children live in households below the low-income threshold (£279 a week for a couple with two dependent children under 14). Other models suggest that a quarter of the population exists on the poverty line, which is sometimes measured as 60 per cent of the average national income¹ (giving a figure of £16,200 in 2014). Yet accurate figures of poverty are difficult to gather, because there are different definitions of what constitutes poverty which today tends to be seen in relative rather than absolute terms (e.g. material goods which people want rather than need).

Governments are concerned that people should look after themselves more, without automatic recourse to the state for help and that they should seek employment more actively. All political parties seem to agree that it is unacceptable that those who are capable of work should reject it and instead live off benefits as a lifestyle. The creation of jobs, an embrace of the work ethic and greater responsibility are seen as essential in the face of a potentially difficult economic future, social uncertainties and pension difficulties. The state pension is a large part of the cost of social security and it is now accepted that workers should work longer before claiming their state pension and save more to supplement their pensions.

The coalition government² in office from 2010 to 2015 reformed and overhauled welfare benefits and argued that too many people are trapped on benefits. Changes are being phased in gradually and are designed to make work pay rather than create a situation where people see their income drop when they move off benefits. These changes are also intended to simplify the system by merging six existing benefits into one single payment, called *Universal Credit*, an additional aim of which is to reduce the amount of fraud and error in the system. *Universal Credit* was first introduced for a small subset of new claimants in certain areas in 2013, and is gradually being rolled-out to new claimant groups. The benefit is not expected to be fully implemented until 2022.

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1. The average national income stood at £31,898 in March 2018

2. Conservative Party and Liberal Democrats.

◆◆ DEFINITIONS ◆◆◆

- ◆ **social security** a nationwide scheme to which the state, employers and employees contribute to provide medical cover, pensions, unemployment and maternity benefits, as well as compensation for accident and injury
- ◆ **government spending** expenditure and investment by central government and local authorities on the provision of social goods and services (health, education, defence, roads), marketed goods and services (coal, postal services), and transfer payments (unemployment benefit, state pensions)
- ◆ **welfare** government provision of benefits to citizens in the areas of health, education, housing and social security
- ◆ **pensions** regular payments received by individuals who have retired from the workforce
- ◆ **Department of Work and Pensions** the largest government department in the UK which handles matters involving employment and social security
- ◆ **public payments** income transferred to individuals by the government; *transfer payments*
- ◆ **contributory benefits** payments received by workers who have paid into the National Insurance Fund
- ◆ **non-contributory benefits** payments received by individuals who have not paid into the National Insurance Fund or have not paid enough
- ◆ **National Insurance Fund** the body which collects contributions from employers, employees and the self-employed, used to pay for social security benefits
- ◆ **benefits** payments made under a national insurance scheme
- ◆ **income tax** a tax levied by governments on the earnings of individuals
- ◆ **retirement** permanent withdrawal from regular or active employment at the end of a working life
- ◆ **claimants** those who assert a right to a benefit or to compensation
- ◆ **means-testing** an examination of all the sources of a person's income to determine whether or not they qualify for financial or social aid from the government
- ◆ **income** the amount of money received thanks to one's social security entitlements
- ◆ **state retirement pensions** basic government-administered payments which are made weekly to individuals who have withdrawn from regular employment, and based on the number of qualifying years gained through National Insurance contributions (NICs) paid throughout working life; *state pensions*
- ◆ **employed** the situation of being in paid work
- ◆ **maternity pay** a benefit paid to pregnant working women
- ◆ **sick pay** wages paid to an employee who has taken time off work due to illness
- ◆ **jobseeker's allowance** unemployment benefit for jobless people of working age who are available for work and actively looking for it
- ◆ **unemployed** the situation of being jobless when willing and able to work
- ◆ **income-related benefits** payments received after examination of a claimant's personal resources; *means-tested benefits*
- ◆ **income support** a means-tested benefit given to people in financial need, such as the long-term sick and unemployed, one-parent families and the elderly
- ◆ **capital** wealth in the form of property owned by a person
- ◆ **prescription medicine** drugs requiring written instructions from a doctor to be dispensed, contrary to over-the-counter drugs; *prescription drugs*
- ◆ **tax credit** a direct reduction in the amount of taxes owed

- ◆ **pay packets** the wages that workers regularly earn, traditionally contained in an envelope; *wage packets, wages*
- ◆ **earnings** the amount of money received in return for one's work
- ◆ **housing benefit** financial assistance to low-income claimants to help them pay all or part of their rent
- ◆ **child benefit** a tax-free payment that can be claimed for a child by anyone who qualifies, whatever their income or savings
- ◆ **training** the provision of guided instruction and experience enabling employees to acquire particular skills or special knowledge to carry out their job
- ◆ **grants** amounts of money given by a government or an institution to individuals for a particular purpose
- ◆ **loans** sums of money that are borrowed and are to be repaid with interest
- ◆ **social fund** originally a scheme designed to provide financial help for people on a low income, abolished in April 2013 when the funding was transferred to local authorities and to the Scottish and Welsh governments
- ◆ **safety net** cash and in-kind transfers targeted to low-income individuals and families with the goal of protecting them from poverty; *social safety net*
- ◆ **households** economic units comprised of a single person living alone, a family or a group of people living under the same roof and sharing living arrangements
- ◆ **low-income threshold** the level at which a household is considered to be in poverty, generally set at 60% of median income
- ◆ **dependent children** minors (under the age of majority) who are financially supported by their parents
- ◆ **poverty line** a minimum income level used as an official standard for determining the proportion of a population living in poverty
- ◆ **average national income** total annual earnings of a country's taxpayers divided by the number of taxpayers within the country
- ◆ **employment** the occupation, business, trade or profession for which you are paid
- ◆ **lifestyle** the way individuals, families or households and societies live and cope with their social environment on a day-to-day basis
- ◆ **welfare benefits** payments made to claimants in the areas of health, education, housing and social security
- ◆ **Universal Credit (UC)** a new benefit which is grouping together Income-based Jobseekers' Allowance, Income-related employment and support allowances, Income Support, Child Tax Credits and Housing Benefit taken together

◆◆ EXERCISES ◆◆◆◆

◆ EXERCISE 1

Comprehension

True / False Circle the correct choice and justify your answer

1. Social security in Britain is based on a dual system of funding. T / F
2. All benefits are granted on the basis of contributions made by those receiving them. T / F

- | | |
|---|-------|
| 3. Unemployment benefits are only paid to those who are actually looking for work. | T / F |
| 4. Child benefit is a means-tested allowance. | T / F |
| 5. The Social Fund makes it easier for low-income earners to claim non-contributory benefits. | T / F |
| 6. Social security ensures protection from relative hardship. | T / F |
| 7. Poverty is a relative concept. | T / F |
| 8. There is a broad political consensus in Britain that people should be more self-reliant. | T / F |
| 9. Workers are now expected to prolong their working lives rather than save more. | T / F |
| 10. Government reforms since 2010 have been aimed at streamlining the benefits system. | T / F |

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate** terms to fit each sentence

- The government's scheme has slipped behind schedule and will not be completed until 2022.
- Some people say it's reasonable to expect those looking for a job, and receiving to do a month's community work after a year.
- One critic asserted that the government's proposals for reform is "punishing people for being poor".
- Forcing the to pick up litter and erase graffiti is considered demeaning by many of those concerned.
- Millions of stand to lose thousands of pounds a year when they are moved across to universal credit from the tax credits system.
- In an ageing population, have remained the single most expensive area of government spending on social security.
- The Beveridge Report of 1942 recommended that a comprehensive system of and health care should be established for all "from the cradle to the grave".
- Over the past twenty years, there has been a significant increase in one-person with no children.
- Social security benefits are very complicated and subject to fraud, particularly in the cases of Income Support and
- Governments have tried to attack fraud, cut expense and reduce benefits while still preserving the commitment.

(B) **Find** a word or expression in the text that most fully and correctly completes the statements below

- The very needy are entitled to assistance from the Social Fund.
- generally involves relating the ability to pay to the level of income.
- Some benefits are a claimant's income.
- One major reform of the benefits system is not being overnight.
- Breadwinners rely on social security benefits to help them their families.
- It is difficult to create simple and fair systems which all forms of poverty.

7. Workers will need to more to ensure an additional retirement income.
8. Accurate measurement of poverty is not easy as reliable are not always available.
9. Income Support is to cover the basic needs of low-income families.
10. The unemployed only receive an allowance if they are actively work.

◇ EXERCISE 3

*Grammar***Quantifiers**

Complete the following sentences choosing between **many, much, a lot of, a little, little, a few, few** or **several**

1. needy people rely on Income Support to meet their daily requirements.
2. benefits are being merged to simplify and streamline the benefits system.
3. There is likelihood of a return to the system of grants and loans that the Social Fund has replaced.
4. Claimants are only allowed capital and limited savings to remain eligible for Income Support.
5. Finding accurate figures of poverty has been the focus of research.
6. economists would deny that poverty is a relative rather than an absolute concept.
7. Income Support covers people in financial need.
8. Successive governments have expressed concern about the need for greater self-reliance.
9. Some editorialists argue that doing community work should be asked of jobseekers on benefits.
10. Child benefit is one of the allowances paid out regardless of family income.

◇ EXERCISE 4

Assignment

Write a short composition of about 300 words addressing the issues raised by each of the opinions below

1. The cost of social security is unsustainable and people should not rely so much on the state for help.
2. Poverty and need are the result of an unwillingness to work and provide for oneself.

CHAPTER 10

SUSTAINABLE GLOBAL DEVELOPMENT

◇ Useful words and concepts

sustainable development
global warming
key
issue
agenda
evidence
CO2 emissions
average
relevant
melting
exports
living standards
economic growth
green growth
innovators
green innovation
cope with
achieved
environmentally friendly
OECD
newly
output per capita
current

tedious
phase out
decade
nuclear meltdown
exceed
GDP
core
nuclear power generation
market economy
assets
damage
inconsistent
bankrupt
stepped in
damage
subsidies (1)
distorting
competition
impairing
renewable energy
affordable
stems from
policymakers

lignite
greenhouse gases
coal-fired power stations
Schumpeterian innovation
upgrading
absenteeism
life expectancy
consumption
capital depreciation rate
neo-classical model
per capita income
utility
assume
ability
hinges on
research and development
green R&D
wealth
prospects
economic welfare
capital stock

Instructions For Study

1. Turn to the **definitions** following the text *Sustainable Global Development*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to improve your language skills.

Sustainable Global Development

Sustainability of economic development and environmental policy are key challenges of the twenty-first century. Global warming has been a key issue for all countries of the world economy. It only came on the agenda in the 1980s when scientists increasingly found evidence and developed simulation models which showed that CO₂ emissions, cumulated since industrialization in the atmosphere, were raising the average global temperature so that glaciers would start melting and polar ice could turn to water, thus raising the global water level considerably. Parallel to this scientific discovery was a globally relevant development of the world economy, namely, the opening up and catching-up process of China. It started in 1978 and brought China to the global number one position in exports in 2013. Living standards for 1.3 billion people increased along with high economic growth. China is one of the world's strongest innovators and green innovation in production and export could help to cope with the new problems in China and elsewhere. It is obvious that achieving more green innovations – innovations that are more environmentally friendly – is crucial for global sustainability.

Environmental progress has been achieved in many OECD countries and government intervention in many forms has contributed to this. The OECD's emphasis on green growth at the beginning of the twenty-first century has contributed to the modernization of environmental policy in many countries. However, many newly industrialized countries have also developed their own strategy for sustainability. Simply increasing output per capita is not sufficient to achieve a decent standard of living for current and future generations and, while international negotiations on climate policy are sometimes very tedious, there is no doubt that many people in the world have come to an understanding that a successful global climate policy is important for everybody on this planet.

The dramatic accident at the Fukushima nuclear reactor in 2012 has encouraged some countries to adopt rather radical reforms. Germany will phase out nuclear energy by 2021 and Switzerland about a decade later. Belgium is also expected to phase out nuclear energy. This seems to be a costly decision; however, it only appears to be so, as so far nobody officially counts the risk of nuclear accidents of the type that happened in Fukushima and Chernobyl, respectively. The cost of an accident with a nuclear meltdown in a major German reactor was estimated to exceed the value of one year of Germany's GDP. As no private insurance company would cover the risk of a nuclear accident with a meltdown of the core in the reactor, nuclear power generation should play no role in a market economy. The idea that the assets of a nuclear power generation company could help to cover damage cost is inconsistent, as the Fukushima incident has clearly shown; TEPCO, the company which suffered the Fukushima accident, would have gone bankrupt if the Japanese government had not stepped in to finance most of the damage. No form of power generation gets larger implicit subsidies from governments in so many countries than nuclear energy. Such subsidization is distorting competition and is impairing the growth of renewable energy. Long-term growth in the world economy needs affordable and safe energy.

If global warming stems from increasing CO₂ emissions, it is natural for policymakers to consider policy options for reducing such emissions (and other greenhouse gases). Coal-fired power stations are a major problem in this context, since the specific emission of CO₂ is high for coal - hard coal and lignite. It is lower for natural gas burnt in power stations. It is (almost) zero for water energy and other renewables such as solar power and wind energy. The problem with renewables is that they are intermittent energy-producing options so that a sophisticated system of coordinating all the various renewable sources has to be developed. Renewable energy without adequate software and computer investment will not work. On a very sunny and windy day in Germany, in 2013 there will be 100% renewable energy production, although on average, over the whole year, the share of renewable electricity was close to only 25% in 2013/2014. Energy generation and the share of renewables in energy generation thus is one key issue of sustainable global development.

Green innovation

A static view of the economy and the global ecological system is not adequate; rather a Schumpeterian innovation perspective is required. In a broader context, environmental upgrading and ecological modernization bring crucial advantages:

- A better environment will stimulate working efforts and reduce absenteeism due to the illness of workers, so that output will increase.

- A better environment raises life expectancy and thus lifetime consumption could increase.

- With a declining level of emissions (e.g., sulphur dioxide emissions), there will be less damage to the physical infrastructure and to machinery and equipment: the effective capital depreciation rate will reduce, so that in the context of a neoclassical model, the level of the growth path of per capita income will increase.

- A better environment also improves the utility of consumption - if people are healthier and can therefore enjoy consumption more than before, there will be an increase in utility. As one may assume that per capita consumption is proportionate to per capita output, a cleaner environment brings a double benefit.

- The ability of a society to switch to a higher environmental quality hinges on investment in research and development in general and on green R&D in particular. Adequate innovation in green technological progress thus is crucial.

In the end, voters and investors are interested in an economic and ecological system which is stable and generates long-term wealth. Sustainable development requires that future generations should have at least similar prospects of economic welfare as current generations. Moreover, if living standards for future generations are to be on a level that is at least as high as that of today's generation, the current capital stock, broadly defined, has to be maintained.

Excerpt from: Paul Welfens, Jens K. Perret, Tony Irawan, *Towards Global Sustainability: Issues, New Indicators and Economic Policy*, Springer, 2016

◆◆ DEFINITIONS ◆◆◆

- ◆ **sustainable development** development that meets the needs of the present, without compromising the ability of future generations to meet their own needs; *sustainability*
- ◆ **global warming** the gradual heating of Earth's surface, oceans and atmosphere
- ◆ **evidence** facts or data that make something plain or clear
- ◆ **CO2 emissions** the releasing into the atmosphere of the colourless, odourless and non-poisonous greenhouse gas known as carbon dioxide; *carbon dioxide emissions*
- ◆ **average** the arithmetic mean obtained by dividing the sum of two or more quantities by the number of items
- ◆ **exports** goods and services sent from one country to another for sale or exchange
- ◆ **living standards** the monetary and non-monetary or social indicators which characterize a person's lifestyle and which are traditionally measured by a country's gross national product and per capita income
- ◆ **economic growth** an increase in a nation's output of goods and services over time; *growth (1)*
- ◆ **green growth** economic growth and development aimed at protecting natural assets so as to sustain the resources and environmental services on which our well-being relies
- ◆ **innovators** those who introduce changes, new ideas and new technologies
- ◆ **green innovation** new or modified processes, practices, systems and products which benefit the environment and so contribute to environmental sustainability
- ◆ **environmentally friendly** causing reduced, minimal, or no harm upon ecosystems or the natural environment; *eco-friendly*
- ◆ **OECD (Organization for Economic Co-operation and Development)** an intergovernmental organization which aims at the coordination of economic development of member and non-member countries through multilateral trade, trade liberalization, and economic reform
- ◆ **output per capita** gross domestic product of a country divided by its population; *per capita output, per capita GDP*
- ◆ **nuclear meltdown** severe overheating of the core of a nuclear reactor resulting in the core melting, which can cause radioactive materials to be released into the environment
- ◆ **GDP (Gross Domestic Product)** the total monetary value of the overall output of goods and services produced annually within a country's geographic borders
- ◆ **nuclear power generation** production of energy by an atomic reaction as an alternative source of electrical power to that supplied by coal, gas, or oil
- ◆ **market economy** one that relies chiefly on market forces to allocate goods and resources and to determine prices
- ◆ **assets** resources that a company owns or is owed and which can be converted into cash; *business assets*
- ◆ **bankrupt** officially declared unable to pay one's debts
- ◆ **subsidies (1)** government provision of finance and other resources to support a business activity
- ◆ **competition** rivalry between two or more suppliers of goods or services to secure a market share or to win new markets at each other's expense
- ◆ **renewable energy** any energy source that is naturally replenished, like that derived from solar, wind, geothermal or hydroelectric action; *renewables*
- ◆ **policymakers** people who are responsible for or involved in formulating plans and ideas, especially those to be implemented by government; *decision makers*

- ◆ **greenhouse gases** gaseous compounds (such as water vapor, carbon dioxide, methane, nitrous oxide, fluorocarbons) that absorb infrared radiation, trap heat in the atmosphere, and create the greenhouse effect, which in turn, contributes to climate change
- ◆ **coal-fired power stations** electrical power generating plants that make use of the combustion of coal in order to generate electricity; *coal-fired power plants*
- ◆ **Schumpeterian innovation** the stimulation of economic growth through the ‘creative destruction’ of old technologies and their replacement by the introduction of new, innovative ones
- ◆ **absenteeism** frequent failure by employees to report to work at their scheduled time
- ◆ **life expectancy** the average age to which a category of persons will live
- ◆ **consumption** the proportion of national income spent by households on final goods and services; *consumption expenditure*
- ◆ **capital depreciation rate** a given percentage reduction applied to the cost of a tangible asset each year representing its diminution in value
- ◆ **per capita income** total national income (GDP) divided by total population; *income per head*
- ◆ **utility** the ability to satisfy a human want or desire
- ◆ **research and development (R&D)** creative work undertaken on a systematic basis in order to increase the stock of knowledge, including knowledge of man, culture and society, and the use of this stock of knowledge to develop new applications
- ◆ **green R&D** research and development activities that contribute substantially to preserving or restoring environmental quality
- ◆ **economic welfare** the level of prosperity and quality of living standards in an economy; *economic well-being*
- ◆ **capital stock** total amount of physical capital (buildings, plant, machinery), human capital, and natural capital (natural resources)

◆◆ EXERCISES ◆◆◆◆

◇ EXERCISE 1

Comprehension

Circle the alternative (a), (b) or (c) that most fully and correctly completes the statements below

1. Global warming became a major issue when
 - (a) scientists demonstrated that polar ice was turning to water
 - (b) China became the number one world exporter
 - (c) scientific research showed that average global temperatures were rising
2. Green innovations
 - (a) could play a role in building a sustainable environment
 - (b) are essential to building a sustainable environment
 - (c) will lead policymakers to build an export-based economy
3. OECD policies have
 - (a) prevented progress towards sustainability in newly industrialized countries
 - (b) helped many countries modernize their environmental strategy
 - (c) emphasized green growth at the expense of environmental policy development

4. The Fukushima nuclear accident in 2012 led Germany, Switzerland and Belgium to
 - (a) question their reliance on nuclear energy
 - (b) take out private insurance to cover the risk of a nuclear meltdown
 - (c) challenge the legitimacy of the market economy
5. Government subsidies to the nuclear industry are
 - (a) no hindrance to the development of renewable energy
 - (b) no hindrance to competition in energy markets
 - (c) detrimental to long-term global growth
6. The emission of CO₂ is
 - (a) equally high for hard coal, lignite and natural gas
 - (b) lower for solar power than for natural gas
 - (c) zero for all renewables
7. Renewable energy
 - (a) does not require much investment in software and computers
 - (b) is 100% reliable, whatever the weather
 - (c) requires a highly developed system of coordination between its various sources
8. In an upgraded environment, consumer utility will
 - (a) rise
 - (b) stabilize
 - (c) decrease
9. Achieving a higher quality environment implies
 - (a) making green innovation a priority
 - (b) raising global consumption
 - (c) discarding the neoclassical model
10. Sustainable development aims to
 - (a) limit global economic welfare
 - (b) ensure that future generations benefit from comparable living standards to those of current generations
 - (c) defend the vested interests of today's voters and investors

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate terms** to fit each sentence

1. The governments of some countries, such as Japan, seem to hope that maintaining a high share of nuclear energy generation is a key element for achieving a high degree of
2. The most common indicator used to assess both economic performance and economic well-being is
3. Further and high emissions pose risks to a rise of life expectancy in many countries.
4. The human development indicator (HDI), which considers per capita income, education and, is broader than the standard indicator for economic development: gross domestic product (GDP).
5. One may argue that the main goal of people is a high per capita and a healthy nice life in combination with a high life expectancy.
6. Transatlantic trade liberalization is largely expected to stimulate, income/production, and economic welfare on both sides of the Atlantic.

7. The fact that countries such as China, India, Indonesia, Brazil, etc, have achieved high long-term reflects the dynamics of successful economic globalization.
8. An interesting question concerns the issue of to what extent TTIP¹ will contribute to higher global output and higher emissions of
9. Asian countries – often with rather low compared to the USA or the EU – aim at further economic catching-up and high medium-term economic growth.
10. Current per capita consumption can only be maintained if the overall (physical capital, human capital, and natural capital) can be maintained.

1. Transatlantic Trade and Investment Partnership

(B) Circle the verb in column **(B)** that **matches** the meaning of the verb in column **(A)** as used in the text

(A)	(B)
1. raising	affecting / strengthening / increasing
2. cope with	accept / deal with / reduce
3. achieved	attained / determine / maintain
4. counts	includes / enumerates / adds up
5. estimated	thought / predicted / evaluated
6. exceed	outstrip / overtake / match
7. cover	hide / insure against / consider
8. suffered	allowed / supported / sustained
9. gone bankrupt	declined / failed / collapsed
10. distorting	interfering with / weakening / disturbing
11. impairing	stunting / disabling / stopping
12. stems from	symbolizes / is due to / relates to
13. upgrading	improving / promoting / innovating
14. switch to	revert to / resort to / shift to
15. hinges on	depends on / relates to / results from

◇ EXERCISE 3

Grammar

Comparisons

Complete the sentences below with the expressions of comparison in the list

as much / just as / compared to (with) / greater ... than / unlike / much earlier than / more / superior / lower / in comparison with / less / cleaner / higher ... than

1. Belgium has not yet set a date to phase out nuclear energy, Germany which is phasing it out by 2021.
2. Germany's phasing out of nuclear energy will be completed Switzerland's.

3. The nuclear accident that took place in Fukushima is judged by some observers serious as the one in Chernobyl, and serious by others.
4. Government subsidies to the nuclear industry are very substantial those received by other forms of power generation.
5. CO2 emissions are for coal for natural gas.
6. A environment will stimulate working efforts and will result in absenteeism.
7. A environmental quality should lead to life expectancy and lifetime consumption.
8. With a level of emissions, there will not be damage to the physical infrastructure as there would otherwise be.
9. If the effective capital depreciation rate is, per capita income in a neoclassical model will be
10. In a sustainable environment, the utility of consumption will be in today's environment.

◇ EXERCISE 4

Assignment

Write an essay of about 300 words on the following subject:

Is climate change a challenge for sustainable development?

PART 2

MANAGEMENT

IN THIS PART YOU WILL READ ABOUT

- Setting up business organizations
- Principles of the cooperative movement
- Corporate growth strategies
- Global competitiveness of multinationals
- Platform-based business models
- The emergence of peer-to-peer consumption
- Movie distribution patterns
- Identifying customer sales opportunities
- Balancing customer satisfaction with efficiency
- Network television market segments

YOU WILL LEARN SOME BASIC TERMS CONCERNING

- The theory of the firm
- The social economy
- Strategic alliances
- Globalization of corporate assets
- Platform theory
- The sharing economy
- Film industry markets
- The core customer
- Productivity strategies
- Broadcast syndication agreements

CHAPTER 11

COMPANIES

◇ Useful words and concepts

company

set up

run

business

operate

paperwork

completed

legal body

owners

shareholders

deal with

shares

promoter

directors

apply to

registrar of companies

issue

authorised capital

issued capital

actually

in stages

call

paid up capital

private companies

public companies

family businesses

traded

stock exchange

board of directors

managing director

set out

rights

raise

unlimited-liability businesses

limited liability

full quotation

dealers

control

purchased

takeover bid

quoted

Stock Exchange Council (the)

go public

arrange for

merchant banks

handle

paperwork

placing

share-buying institutions

pension funds

say

secure

underwritten

share capital

advertised

leading

apply

up and running

rights issue

Instructions For Study

1. Turn to the **definitions** following the text *Companies*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**. Study them closely and pinpoint them in the text.
2. Use an **English** language dictionary to check the meanings (in context) of the other words in the list.
3. Do the exercises to improve language skills.

Companies

A **company** is set up to run a business. It has to be registered before it can start to operate, but once all the paperwork is completed and approved the company becomes recognised as a legal body. The owners of a company are its *shareholders*. However, other individuals and businesses do not deal with the shareholders – they deal with ‘the company’. Shareholders put funds into the company by buying shares.

The promoter or directors of the company can apply to the Registrar of Companies for permission to issue new shares. The amount that the Registrar agrees to is called the *authorised capital*. The *issued capital* is the value of the shares that are actually sold to shareholders. A company may choose not to issue the full value of its authorised capital: it may hold back a certain amount for future issue.

Shares can be issued for payment in stages over a period of time. Each stage is then termed a ‘*call*’. There may be three or four calls before the full price is finally paid. The *paid-up capital* is the money that has been received for these partly paid shares.

Private companies tend to be smaller than public ones and are often family businesses. There must be at least two **shareholders** but there is no maximum number. Shares in private companies cannot be traded on the **Stock Exchange**, and often shares can only be bought with the permission of the *board of directors*. The board of directors is a committee set up to protect the interests of shareholders. The members of the board choose the managing director, who is responsible for the day-to-day running of the business. The rules of the business set out when shareholders’ meetings will take place and the rights of shareholders.

Private companies may find it possible to raise more cash (by selling shares) than unlimited-liability businesses. The shareholders can also have the protection of limited liability. The main disadvantages compared with unlimited-liability businesses are that they have to share out profits among shareholders and they cannot make decisions so quickly. They cost more to set up.

A *public company* has its shares bought and sold on the Stock Exchange. Companies can go to the expense of having a ‘full quotation’ on the Stock Exchange so that their share prices appear on the dealers’ visual display screens. The main advantage of selling shares through the Stock Exchange is that large amounts of capital can be raised very quickly. One disadvantage is that the original shareholders can lose control of the business if large quantities of shares are purchased as part of a ‘takeover bid’. It is also costly to have shares quoted on the Stock Exchange.

In order to create a public company the directors must apply to the Stock Exchange Council, which will carefully check the accounts. A business wanting to 'go public' will then arrange for one of the merchant banks to handle the paperwork. Selling new shares is quite a risky business. The Stock Exchange has 'good days' (when a lot of people want to buy shares) and 'bad days' (when a lot of people want to sell). If the issue of new shares coincides with a bad day a company can find itself in difficulties. For example, if it hopes to sell a million new shares at £1 each and all goes well, it will raise £1 million; but on a bad day it might only be able to sell half its shares at this price.

One way around this problem is to arrange a 'placing' with a merchant bank. The merchant bank recommends the company's shares to some of the share-buying institutions with which it deals (pension funds and insurance companies, for example) who may then agree to buy, say, one-tenth of the new shares. In this way the merchant bank makes sure that the shares are placed with large investors before the actual date of issue comes round. Then, even if it is a bad day on the Stock Exchange when the shares are issued, the company's money is secure. The shares are therefore 'underwritten' by the merchant bank.

Another common method by which public companies raise share capital is to offer new shares for sale to the general public. The company's shares are advertised in leading newspapers and the public are invited to apply. When a company is up and running, a cheaper way of selling is to contact existing shareholders inviting them to buy new shares. This is a *rights issue*.

Excerpt from: *Advanced Business*, Dave Needham & Robert Dransfield, Pearson Education Limited, 2000.

◇◇ DEFINITIONS ◇◇◇

- ◆ **company** a commercial or industrial organization that aims at making a profit by doing business; *business enterprise, firm*
- ◆ **legal body** an association, company, partnership, trust or individual that has legal standing in the eyes of the law; *legal person, legal entity*
- ◆ **shareholders** owners of stock in a company; *stockholders, equity holders*
- ◆ **shares** parts or portions of the equity capital of a company; *stocks*
- ◆ **promoter** person or legal entity that plans the formation of a new firm, and then sells the idea to others
- ◆ **directors** individuals in a company who generally make strategic decisions and who are responsible by law to the business's customers, employees, suppliers and shareholders
- ◆ **registrar of companies** person or office responsible for recording and controlling the formation of new firms, and renewal of or changes in the existing ones in a particular jurisdiction
- ◆ **issue** to put on the market
- ◆ **authorised capital** the maximum value of shares that a company can legally issue; *authorised share capital*
- ◆ **issued capital** the total value of a company's shares that are actually held by shareholders; *issued share capital*
- ◆ **call** specified period of time during which holders of a share-buying option contract have the right, but not the obligation, to buy a certain quantity of shares at a specified price
- ◆ **paid up capital** shares for which the company has received the full nominal value in payment; *fully-paid share capital*
- ◆ **private companies** companies whose shares are not traded on the open market and whose ownership is limited to a small number of investors who tend to be those who are closest to the founders: family, friends, colleagues, employees and angel investors; *private enterprises*
- ◆ **public companies** business firms whose stock is traded on the stock exchange; *public limited companies, public corporations*
- ◆ **family businesses** companies owned by one or more members of the same family
- ◆ **stock exchange** the marketplace where securities (stocks and shares) are traded; *stock market*
- ◆ **board of directors** governing body of a company elected by the shareholders and which represents their interests by monitoring management decisions; *board (the)*
- ◆ **managing director** person with the ultimate responsibility in the UK for a firm's overall operations and performance; *chief executive officer (CEO), chief officer (CO)*
- ◆ **unlimited-liability businesses** companies whose owners have the legal obligation to pay all the outstanding debts in the event of bankruptcy
- ◆ **limited liability** the legal protection granted to shareholders that limits their obligation to pay a company's debts to the amount of the shareholding if the company is bankrupt
- ◆ **full quotation** official registration of a company with the stock market enabling it to sell shares directly to the public at large; *full listing*
- ◆ **dealers** traders of securities (shares and bonds) who buy and sell for their own account rather than as agents for someone else's account
- ◆ **control** the ownership of 50% of a company's shares, plus one, although this can be achieved with less if one person or group owns a significant proportion of the voting shares; *controlling interest*

- ◆ **takeover bid** when one company undertakes to acquire a controlling interest in another through the purchase of its shares
- ◆ **quoted** listed on the stock market
- ◆ **Stock Exchange Council (the)** the committee which runs the London International Stock Exchange and regulates the way in which its members work
- ◆ **go public** when a privately-owned company starts trading its shares on the stock market, often to raise money for its expanding business
- ◆ **merchant banks** financial institutions which act for and advise companies, and which underwrite new issues of securities; *investment banks*
- ◆ **placing** finding individual or institutional buyers for a large number of shares in a new company or a company that is going public
- ◆ **pension funds** state and private institutions which collect and invest pension contributions to provide for retirement pensions
- ◆ **underwritten** guaranteed by a merchant bank
- ◆ **share capital** the value of the assets of a company held as shares; *equity capital*
- ◆ **advertised** made known to the public through printed or online media
- ◆ **rights issue** the privileged offering of stocks or bonds at below market prices to existing shareholders or loan subscribers; *rights offering*

◇◇ EXERCISES ◇◇◇

◇ EXERCISE 1

Comprehension

Circle the alternative (a), (b) or (c) that most fully and correctly completes the statements or answers the questions below

1. To set up a company in Britain, the relevant documents have to be sent to
 - (a) a merchant bank
 - (b) the stock exchange council
 - (c) the registrar of companies
2. Who in the company handles the paperwork needed for registration?
 - (a) the promoter
 - (b) the registrar
 - (c) the shareholders
3. What costs most to set up?
 - (a) a private limited company
 - (b) a family business
 - (c) a public limited company
4. Shareholders are safer if they choose to invest in
 - (a) a limited liability business
 - (b) a family business
 - (c) an unlimited liability business

5. The managing director, who is the person responsible for the day-to-day running of the business, is
 - (a) appointed by the board of directors
 - (b) elected by the board of directors
 - (c) nominated by the board of directors
6. As part of a takeover bid, the owners of a company can change if
 - (a) original shareholders buy a large number of shares on the Stock Exchange
 - (b) original shareholders sell a large number of shares on the Stock Exchange
 - (c) original shareholders maintain their current level of stockholding
7. The Stock Exchange is the place where companies can raise
 - (a) authorised capital
 - (b) issued capital
 - (c) share capital
8. Selling new shares is quite a risky business for companies because
 - (a) it is costly to be quoted on the Stock Exchange
 - (b) there is a degree of uncertainty on the Stock Exchange
 - (c) there is a lot of paperwork involved
9. Merchant banks underwrite new share issues by placing shares with
 - (a) share-buying institutions
 - (b) small investors
 - (c) the general public
10. Which of the following is a public company in Britain?
 - (a) John Swire & Sons
 - (b) Anglo American plc
 - (c) Iceland Ltd

◇ EXERCISE

Vocabulary

(A) Use the list of definitions above **to select the appropriate term** to fit each sentence

1. Dividends can be distributed to if the business is profitable.
2. As a company, you can issue new shares up to the full amount of
3. Generally speaking, the is lower than the maximum amount of shares allowed for the company.
4. Conflicts often arise in about the role each member has to play in the firm.
5. Investors in British companies purchase shares on the
6. The managing director has been requested by the to coordinate plans for increasing next quarter's profit.
7. Companies would be well advised to be registered as businesses once they have developed.
8. The issue of new shares by a company cannot be if the merchant bank has no faith in that company.
9. Nowadays, many companies raise capital through share issues online.
10. Investors may take advantage of a to increase their stockholding in a company.

(B) **Match** the meanings of the words and expressions in column (A) as used in the text with those in column (B)

(A)	(B)
1. in stages	a. organize
2. traded	b. hazardous
3. raise cash	c. not all at once
4. go to the expense of	d. arrives
5. arrange for	e. spend money on
6. a risky business	f. bought and sold
7. one way around	g. collect money
8. say	h. well established
9. comes round	i. a means of avoiding
10. up and running	j. for example

◇ EXERCISE 3

Grammar

Tenses

(A) The sentences below describe market trends. **Choose** between the *simple past* and the *present perfect* to express these trends.

- The Dow Jones industrial average (*rise*) 66.04 points to finish at 7,740.03 yesterday.
- The Standard & Poor's 500 index (*gain*) 3.6 percent this quarter.
- The Nasdaq composite (*surge*) 0.6 percent and the Russell 2000 (*be*) up 0.3 percent last Friday.
- The MSCI Emerging Market Index (*jump*) 0.8 percent since this morning, the first advance in more than a week.
- Intel shares (*drop*) 69 cents to \$16.01 in the heaviest trading of any stock last Thursday.
- The British pound (*decline*) 0.4 percent to \$1.3394 for more than a week now.
- West Texas Intermediate crude (*slide*) heavily to \$51.47 a barrel last month.
- Copper (*fall*) to an astonishing \$2.9465 a pound, its lowest level ever.
- Gold sales (*be*) stagnant lately.
- The euro (*remain*) steady at \$1.1806 over the last week.

(B) **Make** sentences in the correct tense to describe a trend of your own, **using** the verbs and phrases below. **Consult** stock market reports to assist you.

to boost, to be stagnant, to climb, to crash, to decline, to dive, to fall, to deteriorate, to ease back, to edge up, to get better, to get worse, to go down, to go up, to hit bottom, to improve, to rise, to surge, to plunge, to plummet, to rally, to rise, to recover, to reach a peak, to peak, to remain steady, to rocket, to slip back, to slump, to shoot up

◇ EXERCISE 4

Assignment

Case study

Search the Internet for background information about a company of your choice.

Find answers to the following questions:

1. What is the name of the company you have selected?
2. What is the reason for your choice?
3. Who founded the company?
4. When and in what circumstances was it created?
5. What type of company was it at the beginning?
6. What was its main sector of activity?
7. How has the company developed over time? Are there any noteworthy dates or events in its history?
8. Who owns or controls it now?
9. What type of company has it developed into today? What changes, if any, has it undergone since its inception?
10. What are its prospects for future development?

Report on your findings to the class in a 15-minute oral presentation.

CHAPTER 12

COOPERATIVES

◇ Useful words and concepts

cooperatives

achieving

businesses (1)

jointly

owned

controlled

non-governmental organization (NGO)

acknowledged

coercion

membership

compelled

join

quit

prevalent

former

benefits

encapsulates

supplying

capital

equity capital

patronage

joint ownership

govern

significant

representatives

board of directors

members

voting rights

tied

investment

proportionality

goods

services

dependable

inputs

outputs

net profits

refunds

assume

capitalism

roughly

revenue

in the aggregate

grocery

hardware

recreation

supplies

market share

Instructions For Study

1. Turn to the **definitions** following the text *Cooperatives*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**. Study them closely and pinpoint them in the text.
2. Use an **English** language dictionary to check the meanings (in context) of the other words in the list.
3. Do the exercises to improve your language skills.

Cooperatives

There are a number of reasons why people organize and belong to **cooperatives**. They may do so for economic, social, and even political motives. Cooperating with others has often proven to be a satisfactory way of achieving one's own objectives while at the same time assisting others in achieving theirs.

Numerous and varied **businesses** have adopted the cooperative model. Two definitions are commonly used. According to the International Co-operative Alliance (ICA): *a cooperative is an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly owned and democratically controlled enterprise*. The ICA, a **non-governmental organization** with over 300 member organizations from over 100 countries, is acknowledged by cooperative leaders around the world as a leading authority on cooperative definition and values.

Cooperation cannot be based on coercion. As stated in the ICA definition: the essential element of cooperatives is that membership is *voluntary*. Persons compelled to act contrary to their wishes are not truly cooperating. True cooperation with others reflects a belief that people can help each other. In authentic cooperatives, persons join voluntarily and are free to quit the cooperative at any time. The forced collectives prevalent in the former Soviet Union, for example, were not true cooperatives.

The cooperative definition adopted in 1987 by the United States Department of Agriculture (USDA) is also widely accepted: *A cooperative is a user-owned, user-controlled business that distributes benefits on the basis of use*. This definition encapsulates what are generally considered the three primary cooperative principles: user ownership, user control, and proportional distribution of benefits.

The 'user-owner' principle implies that the people who use the co-op (**members**) help finance the co-op and therefore, own the co-op. Members are responsible for supplying at least some of the cooperative's capital. The **equity capital** provided by each member should be in equal proportion to that member's patronage of the co-op. This shared financing creates joint ownership (part of the ICA cooperative definition).

The 'user-control' concept means that members of the co-op govern the business directly by voting on significant and long-term business decisions and indirectly through their representatives on the board of directors. Only co-op members can vote to elect their board of directors and on other cooperative actions. Voting rights are generally tied to membership status – usually one member, one vote – and not to the level of investment in or patronage of the cooperative.

Another key principle for cooperatives is that of proportionality or 'Distribution of benefits on the basis of use'. Members should share the benefits, costs, and risks of doing business in equal proportion to their **patronage**. Co-op benefits may include better prices for goods and services, and dependable sources of inputs and markets for outputs. Most cooperatives also make annual **net profits**, all or part

of which are returned to members in proportion to their patronage (these are known as patronage refunds).

Some people wrongly assume that cooperatives contradict the goals of **capitalism**. If that were the case, cooperatives would not play such an important role in the American economy. About 58,000 cooperatives, operating in virtually every business sector, serve 350 million members, or roughly 4 out of 10 Americans. When ranked by **revenue**, the top 100 cooperatives in the United States individually generated at least \$208 billion in revenue during 2016 and in the aggregate, \$653 billion, covering agriculture, finance, grocery, hardware, healthcare, recreation, and energy industries.

A major role is played by cooperatives in agriculture. In 2015, 2,047 agricultural cooperatives provided roughly 3.1 million farmers (many of whom are members of more than one cooperative) with agricultural marketing, farm supplies, and other farm-related services. They captured around 30 percent of the **market share**.

Adapted and updated from: Kimberly A. Zeuli & Robert Cropp, *Cooperatives: Principles and Practices in the 21st Century*, 2004, © UW-Extension and the Board of Regents.

roughly = approximately

◇◇ DEFINITIONS ◇◇◇

- ◆ **cooperatives** user-owned and user-controlled businesses that distribute benefits on the basis of use
- ◆ **businesses (I)** types of activity taking place in profit-oriented organizations such as companies or shops
- ◆ **non-governmental organization (NGO)** any non-profit, voluntary membership group which is organized at a local, national or international level
- ◆ **benefits** advantages other than money enjoyed by co-op members
- ◆ **equity capital** the amount of investment that the members of the cooperative have at risk; *share capital*
- ◆ **patronage** the use made of the cooperative by its members
- ◆ **board of directors** governing body of a cooperative elected by the members and which represents their interests by monitoring management decisions
- ◆ **members** those persons belonging to an association
- ◆ **investment** the financial stake held by each member of a cooperative
- ◆ **goods** products made to satisfy needs
- ◆ **services** intangible goods provided by business organizations to satisfy customer needs
- ◆ **inputs** resources such as people, raw materials, energy, information, or finance that are put into a system to obtain a desired output
- ◆ **outputs** quantities of goods or services produced over a given time period by a firm or industry
- ◆ **net profits** gross margins of a company minus operating expenses; *net earnings, net income*
- ◆ **capitalism** an economic system characterized by private ownership of the means of production and the free play of the market in conducting business
- ◆ **revenue** the total amount of money received by a business in a specified period before any deductions are made for costs, raw materials or taxation; *sales revenue, sales turnover*
- ◆ **market share** volume of sales of all brands or products competing in the same market that is captured by one particular company, brand or product, usually expressed as a percentage

◇◇ EXERCISES ◇◇◇

◇ EXERCISE 1

Comprehension

True / False Circle the correct choice and justify your answer

- | | |
|--|-------|
| 1. The basic motive for joining a cooperative is a selfish one. | T / F |
| 2. The cooperative business model is a flexible one. | T / F |
| 3. Cooperative membership implies some degree of coercion. | T / F |
| 4. The forced collectives in the former Soviet Union exemplified the cooperative spirit. | T / F |
| 5. Members don't have to make any contribution to the equity capital of a cooperative. | T / F |
| 6. Important business decisions cannot be taken without consulting individual members. | T / F |

- 7. The more a member uses the cooperative, the greater his voice in the decision-making process. T / F
- 8. Ensuring a reliable market for farming produce is an example of a cooperative benefit. T / F
- 9. A patronage refund is based on the extent to which a member uses a cooperative. T / F
- 10. Cooperatives pose a threat to capitalism in so far as they run counter to the profit motive. T / F

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate term** to fit each sentence

- 1. Members of share benefits equitably.
- 2. Purchasing power refers to the quantity of and services people can buy with their income.
- 3. All or part of the profits of a cooperative are returned to members on the basis of their
- 4. In the agricultural processing sector cooperatives require a lot of for start-up and growth.
- 5. Farmers create farm supply and marketing cooperatives to help them maximize their
- 6. Farmers have to keep the cost of as low as possible.
- 7. Non-members sometimes serve on the in a non-voting, advisory capacity.
- 8. Cooperatives are organized to serve member needs and are focused on generating member rather than returns to investors.
- 9. As with other, cooperatives should only be established to meet a well-defined need in the market.
- 10. Agricultural cooperatives in the United States capture a significant proportion of the

(B) **Find** the terms in the text that correspond to the following definitions

- 1. Compelling someone to do something against their will
- 2. Businesses belonging to communities grouped together forcibly by the state.....
- 3. A business belonging to its users
- 4. A business which is governed by its users
- 5. The fact that the business belongs to several members at the same time
- 6. People speaking or voting on behalf of other members
- 7. The privileges of taking part in a co-op's decision-making process and of choosing its directors
- 8. The principle of sharing benefits, costs and risks related to the co-op between members on the basis of use
- 9. Profits shared by co-op members
- 10. Added together

◇ EXERCISE 3

*Grammar***Tenses / Active or passive voice**

Complete the following paragraphs with a correct form of the verb in brackets, using the *active* or *passive voice*

A Brief History of Cooperatives

Groups of individuals around the world and throughout time (*to work*) (1) together in pursuit of common goals. Examples of cooperation, or collective action, can (*to trace*) (2) back to our prehistoric predecessors who (*to recognize*) (3) the advantages of (*to hunt*) (4), (*to gather*) (5), and (*to live*) (6) in groups rather than on their own. The first signs of organized hunting activity (*to base*) (7) around communities are (*to associate*) (8) with *Homo erectus*, modern human ancestors who (*to live*) (9) between 500,000 and 1.5 million years ago in Africa.

Although the word 'cooperative' can (*to apply*) (10) to many different types of group activities, the term (*to use*) (11) here to refer to a formal business model, which (*to have*) (12) relatively recent origins. The earliest cooperative associations (*to create*) (13) in Europe and North America during the 17th and 18th centuries. These associations (*to be*) (14) precursors to cooperatives. The pioneers of the Rochdale Society in 19th century England (*to celebrate*) (15) for (*to launch*) (16) the modern cooperative movement. The unique contribution of early cooperative organizers in England (*to codify*) (17) a guiding set of principles and (*to instigate*) (18) the creation of new laws that (*to help*) (19) foster cooperative business development. Today, cooperatives (*to find*) (20) in nearly all countries.

◇ EXERCISE 4

Assignment

1. **Do** an internet search on the Rochdale Society of Equitable Pioneers. Sum up the Rochdale Principles in about 300 words, and explain their contribution to the modern cooperative movement.
2. **Visit** the website of a Cooperative Society based in an English-speaking country. Write an essay of about 400 words presenting the company, paying particular attention to what it does and how it operates. Then explain whether you would join it or not.

CHAPTER 13

MERGERS AND ACQUISITIONS

◇ Useful words and concepts

mergers and acquisitions

growth (2)

large-scale

firm

market share

private enterprises

manufacturing

net output

achieved

acquisition

merger

shares

legal entity

venture

takeover

shareholders

controlling interest

current

share price

stock market

stockholders

raised

subsumed

purchaser

constituent companies

horizontal integration

vertical integration

conglomerate mergers

lateral integration

despite

subsequent

common

exert

control

supplies

source of supply

factor inputs

cost price

retail outlet

wholesale pricing policy

retail pricing policy

global

providing

facilities

curriculum

assessment

design

customized

operations

diversification

previously

accounted for

figure

benefit

conglomerates

interests

chemicals

animal feeds

cushioned against

commonality

labour skills

capital equipment

raw materials

product outlet

offer

cleared

competition authorities

in that

Instructions For Study

1. Turn to the **definitions** following the text *Mergers and Acquisitions*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**. Study them closely and pinpoint them in the text.
2. Use an **English** language dictionary to check the meanings (in context) of the other words in the list.
3. Do the exercises to improve your language skills.

Mergers and Acquisitions

One of the most significant changes in the UK's industrial structure over the past hundred years has been the growth of the large-scale firm. For example, the market share of the 100 largest private enterprises in manufacturing net output has risen from 22% in 1949 to a maximum of 42% in 1975, before falling back to around 34% by 2010. Most of the growth in size was achieved by acquisition or merger rather than by internal growth.

A *merger* takes place with the mutual agreement of the management of both companies, usually through an exchange of shares of the merging firms with shares of the new legal entity. Additional funds are not usually required for the act of merging, and the new venture often reflects the name of both the companies concerned.

A *takeover* (or acquisition) occurs when the management of Firm A makes a direct offer to the shareholders of Firm B and acquires a controlling interest. Usually the price offered to Firm B shareholders is substantially higher than the current share price on the stock market. In other words, a takeover involves a direct transaction between the management of the acquiring firm and the stockholders of the acquired firm. Takeovers usually require additional funds to be raised by the acquiring firm (Firm A) for the acquisition of the other firm (Firm B), and the identity of the acquired company is often subsumed within that of the purchaser.

Sometimes the distinction between merger and takeover is clear, as when an acquired company has put up a fight to prevent acquisition. However, in the majority of cases the distinction between merger and takeover is difficult to make. Occasionally the situation is complicated by the use of the words 'takeover' and 'merger'. For example, in 1989 the press announced that SmithKline Beckman, the US pharmaceutical company, had 'taken over' the UK company Beecham for £4,509m. However, technically speaking it was a 'merger' because a new company SmithKline Beecham was created which acquired the shares of the two constituent companies to form a new entity.

Four major forms of merger activity can be identified: horizontal integration, vertical integration, the formation of conglomerate mergers, and lateral integration.

Horizontal integration occurs when firms combine at the same stage of production, involving similar products or services. During the 1960s over 80% of UK mergers were of the horizontal type, and despite a subsequent fall in this percentage, some 80% of UK mergers in the late 1990s were still of this type.

Vertical integration occurs when the firms combine at different stages of production of a common good or service. Only about 5% of UK mergers are of this type. Firms might benefit by being able to exert closer control over quality and delivery of supplies if the vertical integration is 'backward', i.e. towards the source of supply. Factor inputs might also be cheaper, obtained at cost price instead of cost + profit. The takeover of Texas Eastern, an oil exploration company, by Enterprise Oil in 1989, serves as an example of backward vertical integration.

Of course, vertical integration could be ‘forward’ – towards the retail outlet. This may give the firm merging ‘forward’ more control of wholesale or retail pricing policy, and more direct customer contact. An example of forward vertical integration towards the market was the acquisition by the UK publishing company Pearson PLC of National Computer Systems (NCS) in 2000 for £1.6 bn. NCS was a US global information service company providing Internet links and facilities for testing curriculums and methods of assessment for schools. The takeover allowed Pearson to design integrated educational programmes for schools by providing students with customized facilities for testing learning and assessment.

Conglomerate merger refers to the adding of different products to each firm’s operations. Diversification into products and areas with which the acquiring firm was not previously directly involved accounted for only 13% of all mergers in the UK in the 1960s. However, by the late 1980s the figure had risen to 34%. The major benefit is the spreading of risk for the firms and shareholders involved. Giant conglomerates like Unilever (with interests in food, detergents, toilet preparations, chemicals, paper, plastics, packaging, animal feeds, transport and tropical plantations – in 75 separate countries) are largely cushioned against any damaging movements which are restricted to particular product groups or particular countries.

Lateral integration is sometimes given separate treatment, though in practice it is difficult to distinguish from a conglomerate merger. The term ‘lateral integration’ is often used when the firms which combine are involved in different products, but in products which have some *element of commonality*. This might be in terms of factor input, such as requiring similar labour skills, capital equipment or raw materials; or it might be in terms of product outlet. The Swiss company TetraLaval’s offer for the French company Sidel in 2001 (which was finally cleared by the EU competition authorities in 2002) provides an example of the difficulty of distinguishing the concepts of conglomerate and lateral integration. TetraLaval designs, manufactures and sells packaging for liquid food products as well as manufacturing and marketing equipment for milk and farm products. Sidel designs and sells machines used in the manufacture of plastic bottles and packaging. The European Commission regarded the merger as conglomerate in that the companies operated in different sectors of the market and were to be organized, post merger, into three distinct entities within the TetraLaval Group. However, it was still the case that the merger would resemble a case of lateral integration in that the companies had a commonality of experience in the packaging and container sector.

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◇◇ DEFINITIONS ◇◇◇

- ◆ **mergers and acquisitions** strategic alliances companies make by combining with or buying others in order to increase their grip on the market they trade in; *M&A*
- ◆ **growth (2)** development in size; *expansion*
- ◆ **firm** a commercial or industrial organization that aims at making a profit by doing business; *company, business enterprise*
- ◆ **market share** volume of sales of all brands or products competing in the same market that is captured by one particular company, brand or product, usually expressed as a percentage
- ◆ **private enterprises** companies whose shares are not traded on the open market and whose ownership is limited to a small number of investors who tend to be those who are closest to the founders: family, friends, colleagues, employees and angel investors
- ◆ **net output** the difference between total revenue of a firm, and the cost of bought-in raw materials, services and components; *value added*
- ◆ **acquisition** situation in which one firm buys a controlling interest in another through the purchase of its shares; *takeover*
- ◆ **merger** combination of the assets of two or more companies in order to form a new business entity; *amalgamation*
- ◆ **shares** parts or portions of the equity capital of a company; *stocks*
- ◆ **legal entity** an association, company, partnership, trust or individual that has legal standing in the eyes of the law; *legal person, legal body*
- ◆ **venture** a business, or a business deal, especially a new one, in which there is a substantial element of risk; *business venture*
- ◆ **shareholders** owners of stock in a company; *stockholders, equity holders*
- ◆ **controlling interest** the ownership of 50% of a company's shares, plus one, although this can be achieved with less if one person or group owns a significant proportion of the voting shares; *control*
- ◆ **stock market** the financial market where securities (shares and bonds) are traded; *stock exchange*
- ◆ **horizontal integration** merger or takeover involving companies which produce the same type of goods or which provide the same type of services
- ◆ **vertical integration** merger with or acquisition of either a company's suppliers (*backward vertical integration*) or its marketing outlets (*forward vertical integration*)
- ◆ **conglomerate mergers** amalgamations, usually for the purpose of diversification, of a number of commercial or industrial companies which are completely different in nature; *conglomerate amalgamations*
- ◆ **lateral integration** merger with or acquisition of a company producing completely different products or providing totally different services, which have something in common
- ◆ **supplies** raw materials, components and other inputs that companies need to carry out their production activities
- ◆ **factor inputs** resources used by firms in the production process such as land, labour and capital, which are combined to produce output of goods and services; *factors of production*
- ◆ **cost price** the price of a good that is sold for what it cost to produce
- ◆ **retail outlet** store at the end of the distribution chain, which generally buys a product from a wholesaler in order to sell it to the final consumer; *retail shop, retail store*
- ◆ **wholesale pricing policy** the guidelines used by a company to set the prices for the selling of its goods and services to those customers who buy in bulk for resale to others

- ◆ **retail pricing policy** the guidelines used by a business to set the prices for the selling of its goods and services directly to the general public
- ◆ **customized** made to order for a particular customer, not part of standard production; *bespoke, custom-made*
- ◆ **operations** the activities of a company directly related to producing goods or providing services
- ◆ **diversification** strategy aimed at expanding a firm's range of activities while spreading its business risks
- ◆ **conglomerates** large-scale corporations that have diversified their operations by entering many different industries
- ◆ **labour skills** the special abilities and know how possessed by the workforce which enable it to do particular tasks
- ◆ **capital equipment** the durable goods such as plant and machinery which are used as factor inputs in the production of other products, as opposed to being directly sold to consumers; *capital goods, producer goods*
- ◆ **raw materials** basic substances in their natural state used as inputs to a production process in which they undergo modification or transformation into finished goods

◆◆ EXERCISES ◆◆◆

◆ EXERCISE 1

Comprehension

Circle the alternative (a), (b) or (c) that most fully and correctly completes the statements or answers the questions below

1. What has been the most commonly used expansion strategy by British firms over the past hundred years?
 - (a) internal growth
 - (b) external growth
 - (c) diversification
2. During the same period, the market share of Britain's largest firms
 - (a) increased steadily
 - (b) increased slightly
 - (c) increased a lot before receding
3. The situation in which the management boards of two companies agree to exchange shares in order to form a new company is known as
 - (a) a merger
 - (b) an acquisition
 - (c) an agreement
4. A takeover is a situation in which the management board of a company makes an offer to buy another company directly to
 - (a) the management board of the target firm
 - (b) the management board and shareholders of the target firm
 - (c) the equity holders of the target firm

5. When there is a merger, the name of the newly created firm often reflects the identity of
 - (a) the acquiring firm
 - (b) the acquired firm
 - (c) the merging firms
6. Which company's identity is absorbed when there is a takeover?
 - (a) the acquiring firm's
 - (b) the acquired firm's
 - (c) the merging firms'
7. In mergers and acquisitions, there is sometimes a need for additional funds to be collected by
 - (a) the acquiring firm
 - (b) the acquired firm
 - (c) the merging firms
8. Which type of merger is most frequently resorted to by companies in the UK?
 - (a) horizontal merger
 - (b) vertical merger
 - (c) conglomerate merger
9. The situation in which a merger takes place between two companies producing different products, which nevertheless have something in common, is known as:
 - (a) diversification
 - (b) conglomerate merger
 - (c) lateral integration
10. When a merger or a takeover bid is *cleared* by the EU competition authorities, as in the Swiss Company Tetralaval's offer for the French company Sidel, this means that the European Commission has
 - (a) rejected the deal
 - (b) approved the deal
 - (c) blocked the deal

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above **to select the appropriate terms** to fit each sentence

1. The underlying principle in is, one way or another, the pursuit of profit.
2. The of firms gives higher remunerations to managers and raises job security because once firms become large, they appear to be more stable and less prone to takeover.
3. Productive efficiency is considered achieved when a firm is producing a given level of with the least-cost methods of production available.
4. In the period before an, the acquiring firm generally grows much faster than the acquired firm.
5. Some insurance companies and pension funds invest substantially in company equity and thus provide a source of finance for companies that want to issue more
6. Directors and managers of a target firm will resist hostile takeover to safeguard the interests of their
7. It is not necessary for a company to have a in its suppliers in order to exert effective control over them.
8. The merger of Air France and KLM airlines in 2004 is an example of

9. The purchase by Boeing of its parts suppliers Global Aeronautics in 2008 and Vought Aircraft in 2009 is an example of
10. The Indian Tata Group, which has over 90 companies operating in various business sectors, and the giant multinational, Procter and Gamble (P&G), are examples of

(B) Match the meanings of the words and expressions in column **(A)** as used in the text with those in column **(B)**

(A)	(B)
1. has put up a fight	a. the period after
2. technically speaking	b. worldwide
3. despite	c. in relation to
4. global	d. resists
5. accounted for	e. according to a strict definition
6. cushioned	f. in spite of
7. given separate treatment	g. corporate bodies
8. in terms of	h. represented
9. post	i. covered, protected
10. entities	j. dealt with differently

◇ EXERCISE 3

Grammar

Tenses / Phrasal Verbs

Replace the verb in *italics* in the following sentences, **with** a phrasal verb from the list below, using the correct form of the verb in the active or passive voice

bail out / break off / cut back / dispose of / give in / lay off / set up / shut down / step up / take over

1. If it were to transpire that Airbus (*acquire*) Bombardier in order to circumvent high import tariffs for its assembly plant in Alabama, the regulatory authorities might step in.
2. The company was about (*save*) by the government when it was purchased at the very last minute.
3. As a result of a merger, the newly formed company (*retrench*) workers massively and each employee was hoping to be one of the few lucky ones to stay.
4. The two merging firms (*stop*) their negotiations when it was discovered that one of the directors had a criminal record for insider trading.
5. The unions have urged shop floor workers to (*halt*) the production lines and put pressure on the board to find a new acquirer.
6. If the merger deal looked like the company (*yield*) to pressure from financial lobbies, the unions would probably call the workers out.
7. Instagram (*create*) in 2010 and absorbed by Facebook two years later.
8. Soon after L’Oreal bought The Body Shop in 2006, women’s human rights groups (*increase*) calls for consumers to boycott their products.
9. Kraft, the US food giant, (*reduce*) its expenses by £675 m per year when it acquired Cadbury, the UK confectioner in 2010.
10. Once the company integrated its main business rival, several inefficient business units (*dump*) quickly.

◇ EXERCISE 4

Assignment

Case study

Select a well-known conglomerate and **trace** its development over the past twenty years. **Report** back to the class in a 15-minute oral presentation. Then **discuss** your choice with the class.

CHAPTER 14

COMPETITIVE ADVANTAGE

◇ Useful words and concepts

competitive advantage

global markets

multinationals

returns

global conduits

assets

intangibles

product designs

management systems

company cultures

transfer

open-market transactions

local players

drive

outsourced

offshored

source

components

modular designs

value chains

plug-and-play modules

Inc.

line

sleek

feature-packed

quarter

outpacing

reference designs

manufactured

component suppliers

software

localized

inputs

globalization (2)

talent

expatriates

gaps

knowledge

capabilities

oversaw

product management

tapping into

know-how

eager

diffuse

top-tier

offshore mergers

and acquisitions

takeovers

market share

entities

brands

fuel

innovation

bolster

competitiveness

local integration

foreignness

lifestyle

adaptation

globalization (1)

undermining

relied on

restore

edge

senior executives

local insider

country executives

headquarters executives

global strategies

Instructions For Study

1. Turn to the **definitions** following the text *Competitive Advantage*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**. Study them closely and pinpoint them in the text.
2. Use an **English** language dictionary to check the meanings (in context) of the other words in the list.
3. Do the exercises to improve your language skills.

Competitive Advantage

For many decades, multinationals were able to earn good returns by acting as efficient global conduits for assets that were difficult to transfer, including intangibles such as product designs, technologies, management systems and company cultures. Transfers within the multinational company were substantially more efficient than obtaining those assets through open-market transactions. In competing with local players, multinationals therefore had a competitive advantage.

However, a number of forces have been eroding that advantage. First, in the drive to reduce costs, established multinationals have focused increasingly on activities with the highest returns. This meant the lower-value activities were outsourced and often offshored to emerging economies — creating global markets in which local companies can also source components and services. The outsourcing drive also necessitated more modular designs. The result is that once-closed value chains have been opened up, enabling local players to source ‘plug-and-play’ modules that can be combined to create products very similar and sometimes superior to those of foreign multinationals.

China’s Xiaomi Inc. is a case in point. Modularization and outsourcing allowed Xiaomi to produce a line of sleek and feature-packed smartphones that became number one in the Chinese market after only five years in business, with a 13.7% share in the fourth quarter of 2014, outpacing both Apple and Samsung. Xiaomi’s phones are based on Qualcomm reference designs, are manufactured by the same companies that make phones for its multinational competitors and use modules from the same component suppliers. Xiaomi’s MIUI software is a localized version of Google’s Android, but it has the advantage of weekly updates that draw on inputs from millions of Chinese users.

A second development is the increasing globalization of the talent and business services markets. A decade ago, it was rare for experienced expatriates living in emerging markets to work for local companies. But as the global talent pool becomes more fluid, successful local companies in emerging markets employ dozens, sometimes hundreds, of foreign experts to fill gaps in their knowledge and capabilities. Hugo Barra, for example, a Brazilian, joined Xiaomi from Google, where he oversaw the rise of its Android ecosystem as vice president of Android product management. Local companies are also tapping into know-how from global professional services firms (design, engineering, consulting, auditing, financial and legal) that are now eager to diffuse best practices in ways that were previously available only to multinationals. Moreover, there is now a large contingent of top-tier students from emerging countries who have returned home after graduating from the world’s best universities.

Third, successful local companies have increasing opportunities to use offshore mergers and acquisitions to capture assets, capabilities and know-how that would otherwise take years to accumulate. Foreign takeovers still face many barriers, including political opposition, but data reveal that companies in emerging markets are making large numbers of acquisitions overseas and that some of these acquisitions are aimed at accessing knowledge that can be brought back home and used to close the gap with multinationals (as opposed to expanding market share abroad).

In sum, multinationals are no longer the only entities that can act as efficient conduits for transferring assets and knowledge around the globe. Companies based in emerging markets can access and acquire brands, product modules, technologies and talent from increasingly efficient global markets and use these assets to fuel innovation and bolster their competitiveness in their home markets.

A New Multinational Mission

Some multinationals can be successful without local integration by turning their foreignness into a virtue. For example, Coca-Cola, Levi Strauss and Disney can continue to sell a piece of American lifestyle, Prada can continue to clothe its foreign customers in Italian fashion sense, and Porsche and BMW can profit from promoting German engineering. Excessive adaptation or local integration would risk undermining the very thing that makes such brands uniquely attractive.

But many other companies that have relied on the traditional advantages of multinationals will continue to see their advantages erode as globalization allows local champions to access similar knowledge and capabilities. To restore their edge, senior executives working for multinationals must make a choice: Either build on their foreignness or integrate locally to create new layers of advantage. Companies that simply rely on adapting the formula they perfected at home will be “stuck in the middle” — neither benefiting from foreign distinctiveness nor enjoying the benefits of becoming a local insider.

Capturing the huge benefits of becoming locally integrated will require both country and headquarters executives and the global organization to change. Multinationals that choose this path will need to look beyond the global strategies that have dominated their thinking over the past 30 years and embrace a new mission: Integrate locally and adapt globally.

Excerpt from: José F.P. Santos and Peter J. Williamson, *The New Mission for Multinationals*,
MIT Sloan Management Review, Summer 2015.

◇◇ DEFINITIONS ◇◇◇

- ◆ **competitive advantage** the factors that give a company a clear performance differential over its rivals; *competitive edge*
- ◆ **global markets** areas around the world in which goods and services of one country are traded to people of other countries
- ◆ **multinationals** large corporations headquartered in one particular country with operations and subsidiaries in several other countries; *multinational enterprises, multinational corporations*
- ◆ **returns** income generated by an investment, expressed usually as a percentage of the amount invested; *yields*
- ◆ **assets** resources that a company owns or is owed and which can be converted into cash; *business assets*
- ◆ **intangibles** non-physical resources a company owns or is owed, some of which are legally protected; *intangible assets*
- ◆ **product designs** plans or drawings showing how a product is made
- ◆ **management systems** frameworks of policies, procedures and processes designed to support managers' work and to improve organizational decision making in areas which include product quality, client relationships, environment performance, and occupational health and safety
- ◆ **company cultures** values and behaviours that contribute to the unique social and psychological environment of an organization; *corporate culture, organizational culture*
- ◆ **open-market transactions** when prices are determined by the market forces of supply and demand
- ◆ **local players** companies operating within the boundaries of a country or of a limited area within a country
- ◆ **outsourced** contracted or sub-contracted to other firms in order to free up human and financial resources, time and facilities for other activities
- ◆ **offshored** relocated by the same company to another country, which is usually situated in another continent and in which labour costs are markedly lower
- ◆ **source** to obtain materials, goods or services required by companies to operate their businesses
- ◆ **components** identifiable finished products intended to be included as part of larger finished, packaged, and labelled items
- ◆ **modular designs** plans or drawings showing how prefabricated, self-contained, standard units or *modules* can be combined with other different but compatible ones in an assembly
- ◆ **value chains** series of inter-linked activities that create and build value, from the design stage to the marketing of a product, contributing to an organization's overall profitability; *supply chains; logistics networks*
- ◆ **Inc.** abbreviation standing for incorporated, placed after the name of a company in the US, to show that it is a separate entity from shareholders who cannot be held liable for any fiscal obligations
- ◆ **reference designs** technical plans or drawings used as models for other companies to copy
- ◆ **manufactured** produced by industrial processes and usually in large quantities
- ◆ **component suppliers** companies producing and providing parts to assemblers
- ◆ **inputs** resources such as people, raw materials, energy, information, or finance that are put into a system to obtain a desired output
- ◆ **globalization (2)** worldwide dissemination of a phenomenon or a trend
- ◆ **talent** particularly skilled employees able to perform specific tasks
- ◆ **expatriates** citizens of a country living in another one for business purposes

- ◆ **knowledge** sum of information which is entrenched in the memory of individuals and which is used by organizations as a factor of production
- ◆ **capabilities** the competences of an individual or an organization required to get something done
- ◆ **product management** the organization and coordination of activities required to get a product or set of products to the market and the support needed throughout the product life cycle
- ◆ **know-how** expert skill, information or knowledge of the methods or techniques of doing something technical or practical
- ◆ **offshore mergers and acquisitions** strategic alliances companies make abroad by combining with or buying others in order to increase their grip on the market they trade in
- ◆ **takeovers** situations in which one firm buys a controlling interest in another through the purchase of its shares; *acquisitions*
- ◆ **market share** volume of sales of all brands or products competing in the same market that is captured by one particular company, brand or product, usually expressed as a percentage
- ◆ **entities** businesses that have a legal and identifiable existence separate from their owners
- ◆ **brands** unique designs, signs, symbols, words, or a combination of these, employed in creating images that identify products and differentiate them from the competition; *brand names*
- ◆ **innovation** process by which an idea or invention is brought onto the market
- ◆ **local integration** the fact for multinationals to be embedded in local distribution, supply, talent and regulatory networks as well as in the broader society
- ◆ **lifestyle** the way individuals, families or households and societies live and cope with their social environment on a day-to-day basis
- ◆ **adaptation** the process of tailoring company products or services to suit local conditions
- ◆ **globalization (1)** the process of worldwide economic integration, *global integration*
- ◆ **senior executives** high-ranking managers holding responsibility in business organizations for making top-level management decisions
- ◆ **local insider** person or organization from a particular area which they know so well
- ◆ **global strategies** plans developed by an organization to target growth and meet profit objectives on a worldwide scale

◆◆ EXERCISES ◆◆◆

◆ EXERCISE 1

Comprehension

True / False Circle the correct choice and justify your answer

1. Multinationals enjoyed superiority over local companies in global markets for many years. T / F
2. Multinationals earned good returns by sourcing assets, especially intangibles through open-market transactions. T / F
3. To cut costs and maintain their lead, multinationals relocated and sub-contracted their highly skilled activities. T / F
4. The outsourcing and offshoring of some activities by multinationals had the undesired effect of creating value chains that enabled local companies to start making products that were comparable to theirs. T / F

- | | |
|--|-------|
| 5. Xiaomi Inc. is an example of a successful local player which has performed better than foreign multinationals in a global market. | T / F |
| 6. The globalization of talents has contributed to the strengthening of multinational advantage in global markets. | T / F |
| 7. To start innovating and compete favourably with multinationals, local companies are using the services of experienced expatriates, global consultants and graduate returnees. | T / F |
| 8. Local companies are buying businesses abroad that enable them to get hold of the intangibles they need to catch up on multinationals. | T / F |
| 9. Adapting their products and services to local conditions is what multinationals have to do to regain their leadership in global markets. | T / F |
| 10. Multinationals need to change if they are to restore their competitive advantage. | T / F |

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above **to select the appropriate term** to fit each sentence

- Multinationals should encourage initiatives from their local units instead of pushing them from the headquarters in order to regain
- The pieces of computer hardware and software as well as the servers a company owns are the company's digital
- Google and Apple have different even though both multinationals are American.
- Multinationals are losing ground to in global markets across a broad range of industries.
- Car manufacturing companies like Porsche and BMW have large networks of that enable them to meet their production deadlines.
- To enhance their, local companies now recruit the talents that only multinationals could afford before.
- Many top local companies increase their by integrating with their local environments and societies to co-create value.
- Coca-Cola competes in global markets with other soft drink
- When a multinational is locally integrated, it becomes a of a particular local environment.
- Multinationals need to change their if they wish to win back their superiority.

(B) Find abbreviations, words or expressions in the text that mean the following

- organizations used to pass information or scientific knowledge to other people or companies in the world
- the passing on of assets from one company to another.....
- repetitive tasks in a factory that are often labour-intensive
- ready-to-be assembled units
- incorporated business
- a relevant illustration of what is being discussed
- a type of product
- period of three months in a tax year.....
- rival global companies
- local market leaders

◇ EXERCISE 3

*Grammar***The suffixes ‘ness’ and ‘ity’**

Complete the following sentences with nouns ending in *-ness* or *-ity* using the adjectives below

available / competitive / distinctive / fluid / foreign / large / rare / similar / sleek / superior

1. Market leaders strive for greater to stay at the top.
2. Apple and Samsung are both manufacturers of smartphones but that is where the ends.
3. The of Android to other mobile operating systems is debatable.
4. helps luxury brands such as Porsche or Louis Vuitton to do well in global markets.
5. The of Xiaomi’s smartphones gave the company an edge over other global players in China.
6. The value of an item on the market depends on its and desirability.
7. Knowledge gaps are being bridged between local and multinational companies due to the of talents in global markets.
8. The of cheap labour in emerging economies encourages multinationals to relocate lower-value activities there.
9. A striking feature of global markets is their
10. The of a business entity lies in its capacity to offer products or services that are different from the competition.

◇ EXERCISE 4

Assignment

“Multinationals should embrace a new mission: Integrate locally and adapt globally”

Write an essay of about 300 words in which you address the challenges multinationals face in meeting this objective. Quote examples of multinational companies to illustrate your viewpoint.

CHAPTER 15

PLATFORMS

◇ Useful words and concepts

platform
technological architecture
business partners
complementors
functionality
game console
socialize
software
software developers
owners
platform theory
challengers
Catch-22 problem
manufactured goods
entrepreneurs
network externalities
installed base
currently
social network
platform sponsors
achieve
subsidies (2)
incentivize
features
draw in
competition
devoted
supporting
complementor network

launch
license
software tools
technological support
technical support
conferences
outcompete
proprietary
Voice-over-Internet Protocol
providers
bundle
the latter
irrelevant
platform envelopment
operating system
download
surf
Web (the)
dethrone
incumbent
insights
enhance
entrants
fending off
platform leveraging
boost
nurtured
benefits
growth momentum

Instructions For Study

1. Turn to the **definitions** following the text *Platforms*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to improve your language skills.

Platforms

A platform is a good or system providing a technological architecture that allows different types of users and complementary business partners (often called “complementors”) to connect and benefit from the platform’s base functionality. For example, a game console is a platform for users to socialize and play using software (games) developed by a myriad of companies. The challenge for a new game console is that software developers don’t want to create games for a console unless there are enough console owners that can use the games — and players don’t want to buy a console unless there are enough games to play on it. At its most basic level, platform theory, for both pioneering platforms and challengers to existing markets, is largely about how to deal with this Catch-22 problem. The theory began with research into platforms of manufactured goods (such as automotive platforms) and then of traditional software products. These early studies stressed the role of complementors — external companies or entrepreneurs that build products and services to run on a platform, thus increasing the platform’s attractiveness.

Key to the success of platforms are network externalities, or the degree to which a platform’s attractiveness grows with the “installed base” or number of consumers using it. For a social network, that means that the more people are currently part of the network, the more other people want to join. The size of the installed base becomes a key factor in the demand for a product or service, often more important than price or quality. Building a large installed base can seem like an insurmountable obstacle for platform challengers. Therefore, platform sponsors that enter a new market space try to build their installed base as quickly as possible. Platform theory proposes that to achieve this goal, platform companies can use subsidies to incentivize users to join, differentiate through technology features or enter the industry early enough to draw in users before competition increases.

Most platform companies understood the importance of complementors and devoted significant resources to supporting their complementor network even from the beginning. For instance, every major game console to launch in the United States in the last decade has done so with a game produced under license from the National Football League, usually the latest *Madden NFL* by Electronic Arts. Since the installed base of the platform defines a complementary product’s potential market, complementors are naturally attracted to those platforms with the largest installed base. Platform sponsors place great emphasis on providing technological support for their complementor network in such forms as software tools, technical training and documentation, technical support and conferences.

Platform theory has also offered a couple of specific strategies that platform sponsors can use to outcompete rival platforms. Technological superiority simply means using a better technology than the competitors to provide features or functionality that does not yet exist in rival platforms. For example, Skype’s proprietary Voice-over-Internet Protocol, known in technical circles simply as “Skype protocol,” gave the company an important early quality advantage over competing VoIP providers that used the more common session initiation protocol.

A platform can also bundle the functionality of another, typically smaller and financially weaker, platform, thus making the latter virtually irrelevant to the market. Platform theory calls this “platform envelopment.” For instance, when Microsoft added Internet Explorer for free to its Windows operating system, Netscape Navigator found itself virtually irrelevant to Windows users, who no longer needed to download Navigator software to surf the Web.

These recent experiences of platform companies that entered the market late and were still able to succeed and dethrone powerful incumbent platforms provide us with additional insights to enhance our understanding of platform markets. But they also point to the continuing challenges platform companies face in fast-changing technology markets. How can new entrants dethrone dominant players? Once successful, staying successful and fending off others who are trying to dethrone you can be a real challenge. Maintaining dominance requires constant attention to the needs of users and complementors so they remain motivated and faithful to the platform.

That challenge can be met in part by using the same strategies that allow an entrant to dethrone the previous dominant platform. For instance, Apple did well by leveraging the power of iTunes. With its already large user base in 2007, iTunes gave the iPhone an important boost early on. However, platform leveraging implies that iTunes is a separate platform that will continue to be nurtured and grown. This in turn means that other smartphone platforms, new or old, can also enjoy the benefits of linking to iTunes — and Android, Google’s smartphone platform and Apple’s main rival in this space, has done just that. Dethroning a dominant platform is difficult, but it is equally difficult to maintain the growth momentum vis-à-vis new challengers. Other entrants may have emerged or may be waiting in the wings to try their own playbook, out to dethrone the dethroner.

Excerpt from: Fernando F. Suarez and Jacqueline Kirtley, *Dethroning An Established Platform*, [MIT Sloan Management Review](#), Summer 2012.

◇◇ DEFINITIONS ◇◇◇

- ◆ **platform** system providing a technological architecture that allows different types of users and complementary business partners to connect and benefit from the platform's base functionality
- ◆ **technological architecture** the overall structure, logical components and logical interrelationships of a computer, an operating system, a network or any other conception
- ◆ **business partners** two or more companies that cooperate to some extent
- ◆ **complementors** external companies or entrepreneurs that build products and services to run on a platform and that increase the platform's attractiveness; *app entrepreneurs*
- ◆ **functionality** what a software or any other product can do for the user
- ◆ **game console** small computer designed chiefly for playing games
- ◆ **software** organized information in the form of operating systems, utilities, programs and applications that give instructions to computers
- ◆ **software developers** companies involved in creating and maintaining computer programs and applications
- ◆ **platform theory** set of principles underlying platform-based business models
- ◆ **challengers** companies actively trying to obtain the market shares of their competitors with the purpose of taking up the leadership in their industry; *market challengers*
- ◆ **network externalities** degree to which platform attractiveness grows
- ◆ **installed base** number of consumers using a platform; *user base*
- ◆ **social network** a website or software program that enables people who share similar interests to communicate with each other by posting text and pictures; *social networking site, social media network*
- ◆ **subsidies (2)** indirect financial contribution made by companies such as offering discount vouchers aimed at attracting new users and keeping existing ones
- ◆ **features** the distinctive characteristics of goods or services that set them apart from similar items.
- ◆ **competition** rivalry between two or more business enterprises to secure a market share or to win new markets at each other's expense; *business rivalry*
- ◆ **license** permission to make, sell or simply use a product on a non-exclusive basis, and subject to outlined conditions
- ◆ **software tools** computer programs used for developing, maintaining or upgrading the performance of other programs or of pieces of hardware
- ◆ **technological support** assistance to professionals aimed at upgrading their scientific knowledge and capabilities in using a particular technology
- ◆ **technical support** assistance to users having problems with their electronic devices
- ◆ **proprietary** sold or distributed under the exclusive rights of owners
- ◆ **Voice-over-Internet Protocol** technology that allows voice to be carried over Internet connections or other networks, not specifically designed to carry voice, using Internet Protocols (IP); *VoIP*
- ◆ **providers** individuals or companies offering goods or services; *suppliers*
- ◆ **bundle** put together as one unit and to be sold at no extra cost
- ◆ **platform envelopment** the fact for a platform to bundle the functionality of another smaller and financially weaker platform and make the latter virtually irrelevant to the market
- ◆ **operating system** computer master program which automatically works when a computer is switched on and which remains in the background to control other programs until it is switched off; *OS*
- ◆ **download** transfer data from remote or host computers to local or client ones

- ◆ **dethrone** when a company succeeds in taking over the market leadership from a competitor
- ◆ **entrants** companies that have recently entered a market or an industry
- ◆ **platform-leveraging** strategy by which companies take advantage of their multiple platforms to gain traction for a new one
- ◆ **growth momentum** sustained trend of an increase in the demand for a particular product or service over time

◆◆ **EXERCISES** ◆◆◆

◇ EXERCISE 1

Comprehension

True / False Circle the correct choice and justify your answer

- | | |
|--|-------|
| 1. Users can connect and benefit from a platform only by means of another software product. | T / F |
| 2. A game console is a complementor of a platform hardware device. | T / F |
| 3. Platform companies and complementors are interdependent. | T / F |
| 4. Platform challengers meet no major hurdles when setting up a user base. | T / F |
| 5. The success of a platform on the market depends mostly on the quality and price of the device. | T / F |
| 6. A large installed base can be built faster if a platform company is an early market entrant. | T / F |
| 7. Complementors are usually attracted by platforms with a small installed base. | T / F |
| 8. Platform envelopment may drive bundled software developers out of the market. | T / F |
| 9. The challenge faced by dethroners is to reach rather than stay at the top of the platform market. | T / F |
| 10. Apple's iTunes shows that leveraging implies bundling and nullifying smaller platforms. | T / F |

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate term** to fit each sentence

1. Customers who are senior citizens may be less concerned with the number of people using a than they are with the number of other senior citizens using it.
2. New to the market can gain significant traction by focusing on a user group that is distinctive and underserved by the dominant company.
3. Facebook focused on consumers rather than businesses to MySpace and Friendster when it entered the social network platform market.
4. Facebook opened its platform to anyone only after its, initially centered on students, had grown.
5. differs from a platform complementor relationship in that both platforms belong to one company.
6. By using a multitouch display, Apple has unveiled a totally new interface for smartphones while embedding in a streamlined, one-button design.

7. Platform companies woo by offering technical support and working alongside them to define and clarify standards.
8. The segment that Apple targeted when it launched its iPhone included consumers that app entrepreneurs had not been able to reach easily before.
9. need to test constantly that the apps they write work properly on mobile platforms.
10. Consumers can a lot of frivolous apps on their smartphones like Drync, a wine-buying app.

(B) Answer the following questions with a correct expression from the text

1. How would you describe the platforms of manufactured goods such as those used in the automotive industry? They are
2. What name is often given to companies trying to outcompete leading platforms with large installed bases? They are called
3. What is the role of organizations like FIFA, NBA or EPL, the English premier soccer league, that inspire and lend their prestige to a lot of video games? They are
4. How do you compare the offerings of Google, Yahoo and Hotmail on the webmail market? They are
5. What type of businesses are providing hardware devices, traditional software or software in the cloud and are releasing application programming interfaces? They are
6. What is the standing of Apple's iPhone and Samsung's Galaxy on the platform markets of today? Each of them is considered to be a
7. How do you refer to groups of users connected by a shared technology that enables them to form and benefit from a social network? They are referred to as
8. What name is given to the set of principles governing business models that create value by facilitating exchanges between two or more interdependent groups? It is called
9. What is Google's Android? It is a mobile phone
10. How would you label a company like Apple which ousted Blackberry as a longstanding leader on the platform market? It is a

◇ EXERCISE 3

Grammar

The suffix 'ize'

(A) Change the word in *italics* into a verb ending in 'ize' to express the ideas in the sentences below

1. to participate actively in a *social* group
2. to offer *incentives* or some form of motivation to customers or employees
3. to build, fit or alter a product or service according to *customer* specifications
4. to convert data or an image to *digital* form
5. to exert a *monopoly* over a market
6. to transfer a state-owned company to the *private* sector
7. to render a software programme *operational*
8. to make actions or operations *synchronous*
9. to provide different forms of *subsidy* to a company
10. to place *emphasis* or stress on something

(B) Use the verbs you have formed in the correct tense to complete the sentences below

1. Companies can differentiate their products by the attributes highly valued by the target customers.
2. Players can on a game console used as a platform.
3. Governments tend to state-owned utility companies.
4. The first iPhones did not standard business applications or apps unlike Microsoft Exchange server in which e-mail, calendar and contacts are
5. A market entrant can gain significant attractiveness by a platform to a particular segment.
6. Several investors agreed to the new digital venture.
7. Companies employees with perks such as lunch vouchers.
8. Record companies songs at the turn of the 21st century and made them available on the Internet.
9. The company the market for computer operating systems since the late 1980s.
10. The company's plans for enhanced capabilities are yet to be

◇ EXERCISE 4

Assignment

Select a platform you are familiar with or you have simply heard of and **find** information about it on the Internet. **Report on** your findings in a 15-minute oral presentation.

Address the following questions to assist you:

1. What is the trade name of the platform?
2. What can it be used for?
3. What type of social network(s) does it target?
4. What is required to use or access it?
5. Who owns the platform?
6. Does the company own other platforms? If so, provide further details.
7. Is there any evidence that the company has resorted to platform leveraging?
8. What does the company do to attract complementors?
9. Has the platform got a large user base? If so, describe this base.
10. Elaborate on what the company is doing to ensure that the platform is successful.

CHAPTER 16

COLLABORATIVE CONSUMPTION

◇ Useful words and concepts

collaborative consumption

collaboration

gaining momentum

create value

shared and open

resources

self-interest

larger community (the)

online community

communities

collaborative

individualism

array

subcultures

appeal to

peer provider

assets

rent (1)

peer user

spectrum

rents (2)

rate of return

loan

social lending sites

peer borrower

forward thinking

socially minded

sustainable

brands

swap trading

time banks

local exchange trading

systems

bartering

peer-to-peer currencies

clothing swaps

shared workspaces

co-housing

co-working

couchsurfing

crowdfunding

ride sharing

food co-ops

walking school buses

peer-to-peer rental

scale

purpose

product service systems

redistribution markets

collaborative lifestyles

backgrounds

usage mind-set

own

outright

disrupting

ownership

twofold

burdens

social networks

fuelling

free exchanges

makeup

marketplaces

regardless of

waste band resources

commerce

retailer

consumer

banding together

errands

skills

scale

trust

convenience

Instructions For Study

1. Turn to the **definitions** following the text *Collaborative Consumption*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to improve your language skills.

Collaborative Consumption

Over the past couple of years a quiet yet powerful revolution of collaboration has risen up and is gaining momentum throughout our cultural, political and economic system. We are relearning how to create value out of shared and open resources in ways that balance personal self-interest with the good of the larger community. People can participate without losing their autonomy or individual identity. As Neil Gorenflo, founder of the online community Shareable, puts it, “Communities can help people become more than they are as individuals. In other words, we benefit from a ‘collaborative individualism’.”

As a matter of fact, people are participating in different types of collaborative consumption from a diverse array of subcultures and socioeconomic and demographic groups. There are two distinct ways to participate in collaborative consumption, each with a different appeal to different people. You can play the role of ‘peer provider’ by providing assets to rent, share or borrow. Or you can play the role of ‘peer user’ consuming the available products and services. Some participants may choose to do both, but others may feel comfortable on one end of the spectrum. The participant who wants to make money renting his or her car through WhipCar or other unused items through sites such as Ecomodo is likely to have different motivations from the ‘user’ who rents these items. Similarly, the person looking for a high rate of return through a loan on social lending sites such as Zopa is there for different reasons than the peer borrower who needs money.

Some collaborative consumers are forward thinking and socially minded optimists, but others are individuals motivated by a practical urgency to find a new and better way of doing things. That practical urgency may be to save money or time, access a better service, be more sustainable, or allow closer relationships with people rather than brands.

Swap trading, time banks, local exchange trading systems (LETS), bartering, social lending, peer-to-peer currencies, tool exchanges, land share, clothing swaps, toy sharing, shared workspaces, co-housing, co-working, couchsurfing, car sharing, crowdfunding, bike sharing, ride sharing, food co-ops, walking school buses, shared microcrèches, peer-to-peer rental – the list goes on – are all examples of collaborative consumption. Although these examples vary in scale, maturity and purpose, they can be organized into three systems – product service systems, redistribution markets and collaborative lifestyles.

Product Service Systems (PSS)

An increasing number of people from different backgrounds and across all ages are shifting to a ‘usage mind-set’ whereby they pay for the benefit of a product – what it does for them – without needing to own the product outright. This is the basis of product service systems (PSS), which are disrupting traditional industries based on models of individual private ownership. In a PSS, a service enables multiple products owned by a company to be shared (car sharing, solar power, launderettes), or products that are privately owned to be shared or rented peer-to-peer (Zilok, TheHireHub). PSSs can also extend

the life of a product (repair services offered by Steelcase, or Interface Carpets, for example). The obvious environmental advantage of this system is that an individually owned product with often limited usage is replaced with a shared service that maximizes its utility. For users the key benefits are twofold. First, they don't have to pay for the product outright. It removes the burdens of ownership such as maintenance, repair and insurance, and enables us to make the most of the assets we do own. And second, when our relationship with things moves from ownership to use, options to satisfy our needs, whether for travel, leisure, work, food or children, change and increase.

Redistribution Markets

Social networks enable used or pre-owned goods to be redistributed from where they are not needed to somewhere or someone where they are, fuelling the second type of collaborative consumption, redistribution markets. In some instances, the marketplace is based on entirely free exchanges (Freecycle, Around Again); in others the goods are sold for points (Barterquest, UISwap) or for cash (eBay, Flippid), or the markets are a mixture (Gumtree and craigs-list). Goods such as makeup, accessories, clothes, books, toys, games, baby clothes and DVDs can be swapped for similar value (SwapSimple, SwapCycle). Often exchanges are conducted between anonymous strangers, but sometimes the marketplaces connect people who know each other (Share Some Sugar, NeighborGoods). Regardless of the specifics of the exchange, a redistribution market encourages reusing and reselling old items rather than throwing them out, and also significantly reduces waste and resources that go along with new production. Redistribution is the fifth 'R' – reduce, recycle, reuse, repair and redistribute- and increasingly considered a sustainable form of commerce. It challenges the traditional relationship between producer, retailer and consumer, and disrupts the doctrines of 'buy more' and 'buy new'.

Collaborative Lifestyles

It is not just physical goods such as cars, bikes and used goods that can be shared, swapped and bartered. People with similar interests are banding together to share and exchange less tangible assets such as time, space, skills and money, in what we call collaborative lifestyles. These exchanges are happening on a local level and include shared systems for working spaces (The Cube London, Hub Culture), goods (Ecomodo, ThingLoop), tasks, time and errands (Camden Shares, Timebank Wales), gardens (Edinburgh garden Share), skills (Brooklyn Skillshare), food (Neighborhood Fruit) and parking spaces (ParkatMyHouse). But collaborative lifestyles are also happening worldwide as the Internet enables people to coordinate, scale and transcend physical boundaries in activities such as peer-to-peer social lending (Zopa, YES-Secure) and travel (CouchSurfing, Airbnb). A high degree of trust is often required with collaborative lifestyles because human-to-human interaction, not a physical product, is often the focus of the exchange. As a result, they generate a myriad of relationships and social connectivity.

Across product service systems, redistribution markets and collaborative lifestyles, motivation can range from saving money to making money, from convenience to meeting friends, from saving space to saving time, from feeling a part of a community to 'doing the right thing'.

Excerpt from: Rachel Botsman and Roo Rogers, *What's Mine is yours: How Collaborative Consumption is Changing the Way We Live*, Collins, London, 2011.

◇◇ DEFINITIONS ◇◇◇

- ◆ **collaborative consumption** consumer behavior in which goods or services are shared, swapped or rented over networks
- ◆ **collaboration** face-to-face or online cooperation between members of a community aimed at having access to products or services through sharing, swapping or renting rather than through ownership
- ◆ **create value** perform actions that increase the worth of goods and services
- ◆ **shared and open resources** assets that are available and ready to be used by the public at large
- ◆ **self-interest** caring about one's own interests and not about things that would help other people
- ◆ **larger community (the)** society as a whole
- ◆ **online community** participants in online discussions on topics of mutual concern, or all the people who frequently visit particular websites; *virtual community*
- ◆ **communities** self-organized networks of people with a common agenda, cause, or interest, who collaborate by sharing ideas, information, and other resources; *peer communities*
- ◆ **collaborative individualism** the culture of the members of online communities who share certain values and goals and whose behavior is characterized by a desire to strike a balance between independent action and cooperation with others
- ◆ **subcultures** segments of the social heritage of a group which show different customs, norms and values while reflecting the dominant aspects of the main culture
- ◆ **peer provider** a person who offers goods or services to rent, share or borrow over networks
- ◆ **assets** the goods or services made available for renting, sharing or borrowing on the marketplace
- ◆ **rent (1)** to allow people to use assets temporarily in exchange for a one-off payment or regular ones
- ◆ **peer user** a person consuming the goods or services available for renting, sharing or borrowing over networks
- ◆ **rents (2)** uses assets temporarily in exchange for one-off or regular payments
- ◆ **rate of return** the income generated expressed in percentage terms; *yield*
- ◆ **loan** a sum of money a lender transfers to a borrower who agrees to pay it back with interest
- ◆ **social lending sites** internet platforms which match savers with individuals who want to borrow money; *peer-to-peer lending sites*
- ◆ **peer borrower** a person taking out a loan on a social lending site rather than from a traditional financial institution such as a bank
- ◆ **sustainable** consumer behavior that is respectful of the natural environment
- ◆ **brands** unique designs, signs, symbols, words, or a combination of these, employed in creating images that identify products and differentiate them from the competition; *brand names*
- ◆ **swap trading** the act of organizing events or parties at which people socialize and exchange goods for other goods, not for money; *swishing*
- ◆ **time banks** reciprocity-based work trading systems in which a person with one skill set can exchange hours of work for equal hours of work in another skill set instead of paying or being paid for the services rendered
- ◆ **local exchange trading systems (LETS)** locally organized economic organizations that allow members to participate in the exchange of goods and services among others in the group using locally created currencies
- ◆ **bartering** trading things (such as goods or services) for other things instead of for money

- ◆ **peer-to-peer currencies** types of unregulated, digital money, which are issued and usually controlled by their developers, and used and accepted among the members of a specific virtual community
- ◆ **shared workspaces** physical workplaces consisting of open plan spaces, shared desks, break out areas housing collaborative communities of like-minded freelancers, start-ups and SMEs and offering them space for business support, professional advice drop-ins and investor meetings, in addition to social and networking events; *collaborative workplaces, co-working spaces*
- ◆ **co-housing** semi-communal housing consisting of a cluster of private homes and a shared community space (as for cooking or laundry facilities)
- ◆ **co-working** a style of work in which independent workers are sharing the same workplace, often an office
- ◆ **couchsurfing** the practice of travelling around and staying with people you do not know, who advertise their homes on the internet; *couch surfing, sofa-surfing*
- ◆ **crowdfunding** the use of small amounts of capital from a large number of individuals to finance a new business venture
- ◆ **food co-ops** food distribution outlets organized as cooperatives; *food cooperatives*
- ◆ **walking school buses** ways for a group of children to walk safely in a group with an adult to and from school, along a route that passes by the children's homes with stop and pick up times like a school bus
- ◆ **peer-to-peer rental** system in which a house owner makes their property available for others to rent for a short period of time with the internet acting as a facilitator; *person-to-person home rental, P2P home rental*
- ◆ **scale** the size of the network
- ◆ **product service systems** modes of collaborative consumption that allow people to pay for the benefit of using a product without needing to own the product outright
- ◆ **redistribution markets** forms of sustainable commerce in which used or pre-owned goods are transferred from where they are not needed to somewhere where they are
- ◆ **collaborative lifestyles** ways in which people with similar needs or interests connect with each other and share or exchange intangible assets such as time, space, skills and money
- ◆ **usage mind-set** attitude whereby people typically prefer to pay for the shared use of a product rather than to own it
- ◆ **social networks** websites or software programs that enable people who share similar interests to communicate with each other by posting text and pictures; *social networking sites, social media networks*
- ◆ **free exchanges** virtual marketplaces which provide platforms where used and unwanted goods are redistributed
- ◆ **marketplaces** platforms where providers and users exchange goods and services
- ◆ **waste band resources** unwanted material left over from a production process; *scrap*
- ◆ **retailer** a business at the end of the distribution chain, which generally buys a product from a wholesaler in order to sell it to the final consumer
- ◆ **consumer** a buyer of goods and services who uses them to satisfy their needs
- ◆ **errands** jobs that you do for somebody that may involve taking a message, buying something or delivering goods for them

 ◇◇ **EXERCISES** ◇◇◇

◇ EXERCISE 1

Comprehension

True / False Circle the correct choice and justify your answer

1. Collaborative consumption refers to a new economic model based on the ideas of trading and sharing resources at the local level. T/F
2. The founder of *Shareable* contends that the culture of collaborative individualism is not incompatible with the broader interests of society. T/F
3. Participants in collaborative consumption can only be either suppliers or consumers of the resources that are shared. T/F
4. Collaborative consumers all seem to be motivated by the desire to meet an urgent need. T/F
5. Product service systems show that consumer attitudes have changed from paying in order to own to paying merely to use material goods. T/F
6. Product service systems allow people to make money by using a platform to rent their properties to, for instance, neighbours. T/F
7. In a product service system, peer users have to pay for the after-sales service of the products they benefit from. T/F
8. The free exchanges taking place in the redistribution markets are considered to be a supplement to the existing forms of sustainable commerce. T/F
9. Redistribution markets encourage people to 'buy more' and 'buy new'. T/F
10. Collaborative lifestyles allow people with similar needs to connect with each other and share or exchange intangible assets both locally and all over the world. T/F

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions to **select the appropriate term** to fit each sentence

1. refers to modes of consumption in sharing communities.
2. The at the heart of the sharing economy may be local, face-to-face or via provider-user interactions on the web.
3. Purchasing music digitally on the Internet is a form of music delivery because it reduces the carbon footprint and energy usage associated with delivering music to consumers through CDs at a retail outlet.
4. Time rather than money is the common measure of value being used in the and local exchange trading schemes (LETS) that thousands of communities have created around the world.
5. Most children have their first experience at school when they start trading something they have for what someone else wants.
6. Bitcoins and cryptocurrencies such as Litcoins, Zcash and Monero Dash are all
7. Crowdsourcing differs from in that it is used by a business which is already up and running while the latter is rather used to fund a new venture.
8. Product service systems, and collaborative lifestyles show how consumer behavior is changing.
9. Parents with a are unlikely to throw away the toys their children outgrow.

10. Innovative information and communication technologies have boosted interconnectivity, specifically in relation to

(B) Fill in the blanks in the following text with the words from the list below

barter / behaviours / communities / cash / consumption / crowdfunding / culture / currencies / customize / income / locally / mobility / networks / owners / possessions / rating / reputation / sell / socioeconomic / swapping

A Collaborative and Sharing Culture

Based on the evolution of collaborative (1) to date, and the (2) context the phenomenon is emerging within, we believe certain (3) and ideas will take hold over the next decade in a significant way. People will have ‘..... (4) bank accounts’ alongside their normal bank accounts, and a reputation (5) that will measure contributions made to various types of collaborative (6). Peer-to-peer marketplaces where people ‘.....’ (7) their idling capacity (cars, energy, products, food and skills) will be viewed as a second source of (8). Redistributing and (9) goods will become as much second nature as throwing stuff away. The consumer preference for handmade or (10) produced goods will become the norm. Neighbourhood (11) will explode and enable local (12) between residents on their creative and social projects together. Our (13) will have intelligence that will allow us to share their stories with their future (14). Car companies will see themselves in the business of (15), not in vehicles or in transportation. There will be an explosion in services that enable you to repair, upgrade and (16) owned or secondhand products. Instead of automatically paying with (17) for many products and services, we will offer to (18) talents, skills and ideas, and virtual social (19) will have become a normal way to exchange. There will be a whole ecosystem of apps and software for our phones and computers that will enable us to share any kind of product, skill, time or service. A collaborative and sharing culture will be the (20).

◇ EXERCISE 3

Grammar

The Passive voice

Put the sentences below in the *passive voice*

1. Users police peer-to-peer platforms such as eBay.
2. Peer influence can increase the use of redistribution markets.
3. Peer-to-peer exchanges are nurturing trust between strangers.
4. Peer-to-peer networks are making old barter practices relevant today.
5. New technologies have transformed social relationships between people living in different parts of the world.
6. The Internet has fostered the creation of virtual currencies such as Ripple.
7. In the past, consumers passed on information on products to their peers by word-of-mouth rather than through Internet-enabled platforms such as Facebook.
8. Giles Andrews and fellow co-workers founded Zopa, the world’s first online peer-to-peer lending marketplace in Britain in 2004.

9. Peer-to-peer platform users will eventually form decentralized and transparent online communities.
10. People around the world will probably adopt a collaborative consumption mindset in the near future.

◇ EXERCISE 4

Assignment

Search the internet for information about a collaborative or sharing organization.

Which of the three collaborative systems in the list below does it belong to?

Which associated sector of activity is it trading in?

Choose a traditional company using a conventional business model which operates in the same area of activity as your organization.

Deliver a 15-minute oral report to the class focusing on the differences in approach by your two organizations to a major operational or management issue of your choice.

List of collaborative consumption systems and associated business sectors

1. Product Service Systems

Car sharing, peer-to-peer car sharing, ride-sharing, bike sharing, taxi sharing, peer-to-peer rental, toy and baby goods rental, fashion and accessories rental, film rental

2. Redistribution markets

Big marketplaces, swap sites for like goods, swap sites for goods of similar value, clothing swaps, food

3. Collaborative Lifestyles

Co-working spaces, peer-to-peer social lending, social currencies, crowdfunding, travel, bartering, peer-to-peer sharing of gardens, parking spaces or storage

CHAPTER 17

MOVIE MARKETING

◇ Useful words and concepts

arrangements
digital platforms
globalization (2)
social media networks
entertainment
beneficial
industry segments
sequential distribution
patterns
monitored
scoring
editing
mixing
prints
stages
marginal revenue
revenues per unit time
theatrical release
licensing (1)
television networks
syndicators
periods of exclusivity
income
sensible
distributors
price-discriminate
windows
scarcity

crafted
terms
achieved
public good
distributor-exhibitor
contracts
marketing campaigns
target audiences
studio
green-light
forecast
prospects
appeal
theaters
exhibition chains
location
marketing mix
buildup
so-called
bid letters
playing times
regional branch exchange
sales office
film bookers
bid for
runs
sliding percentage
playdates

box-office gross
location
trailers
ads
network television
campaigns
local spots
word-of-mouth
advertising
Academy Award (s)
seasonal peaks
prospective
purposely
staked out
thwart
unauthorized copying
consolidate
shopping-centre malls
economies of scale
decaying
financial hardships
affluent
consumers
suburbs
grime
deterrents

Instructions For Study

1. Turn to the **definitions** following the text *Movie Marketing*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**. Study them closely and pinpoint them in the text.
2. Use an **English** language dictionary to check the meanings (in context) of the other words in the list.
3. Do the exercises to improve your language skills.

Movie Marketing

Since the mid-1970s, the movie industry has been in a transition phase characterized by diminished control of distribution and product pricing through traditional organizational arrangements. The changes extend from the making of 3D films to the proliferation of digital platforms and the globalization of social media networks. Although this transition has already provided consumers with an increasingly varied selection of easily accessed, low-cost entertainment, it has not been beneficial to all industry segments. Technological development has, however, made it possible for more content to be created by more people and to be distributed more widely and at a lower cost (e.g., via the Internet), than ever before.

Sequential distribution patterns

After the principal production phase has been completed, thousands of details still remain to be monitored and administered. Scoring, editing, mixing sound and color, making prints at the film laboratory and conversion to digital formats are but a few of the essential steps. Once the film is in the postproduction stages, however, perhaps the most critical preparations are those for distribution and marketing.

Films are normally first distributed to the market that generates the highest marginal revenue over the least amount of time. They then “cascade” in order of marginal revenue contribution down to markets that return the lowest revenues per unit time. This has historically meant theatrical release, followed by licensing to pay cable program distributors, home video, television networks, and finally local television syndicators. Distribution is thus all about maximizing discrete periods of exclusivity.

Sequencing is always a marketing decision that attempts to maximize income, and it is generally sensible for profit-maximizing distributors to price-discriminate in different markets or “windows” by selling the same product at different prices to different buyers. Control of windows creates scarcity, which is crafted through the use of contractually specified terms and times of exploitation exclusivity that are achieved through the use of what are known as “holdbacks”.

It should not be surprising, however, to find that, as new distribution technologies emerge and older ones fade in relative importance, shifts in sequencing strategies occur. For example, the Internet’s ability to make films instantly available anywhere now requires simultaneous worldwide day-and-date theatrical or DVD release for major projects. Such “windowing” is also a way in which the public good characteristics of movies used as television programs can be fully exploited.

Distributor-exhibitor contracts

Distributors normally design their marketing campaigns with certain target audiences in mind, and marketing considerations are prominent in a studio’s decision to make (i.e., “*green-light*”) or otherwise acquire a film for distribution. Indeed, in the earliest stages, marketing people will attempt to forecast the prospects for a film in terms of its potential appeal to different audience demographic segments, with male/female, young (under 25 /old), and sometimes also ethnic/cultural being the main categorizations.

Distributors will then typically attempt to align their releases with the most demographically suitable theaters, subject to availability of screens and to previously established relationships with exhibition chains. They accomplish this by analyzing how similar films have performed previously in each potential location and then by developing a release strategy that provides the best possible marketing mix, or platform, for the picture. Sometimes, the plan may involve slow buildup through limited local or regional release; at other times, it may involve broad national release on literally thousands of screens simultaneously.

However, instead of negotiating, distributors may also sometimes elect, several months in advance of release, to send so-called bid letters to theaters located in regions in which they expect (because of demographic or income characteristics) to find audiences most responsive to a specific film's theme and genre. This would normally be the preferred method of maximizing distributor revenues at times when the relative supply of pictures (to screens) is limited, as had happened in the late 1970s. Theaters that express interest in showing a picture then usually accept the *terms* (i.e., the implied cost of film rental and the playing times) suggested by the distributor's regional branch exchange (sales office)

Such contracts between distributors and exhibitors are usually fairly standard from picture to picture and are arranged for large theater chains by experienced film bookers who bid for simultaneous runs in several theatres in a territory. The key phrases used in all contracts are *screens*, which refers to the number of auditoriums and *playdates* (sometimes called *engagements*), which refers to the theater booked.

Standard contracts between distributors and exhibitors would, however, almost always call for a sliding percentage of the box-office gross. Contracts are now largely a function of the quality of theater location, number of screens, and number of seats and are also often supplemented by payments for placements of trailers, which are ads for coming attractions.

Some films are supported with national network-television campaigns arranged months in advance, whereas others use only a few carefully selected local spots, from which it is hoped that strong word-of-mouth advertising will build. Sometimes a picture will be opened (limited release) in only a few theaters (i.e. *playdates*) in New York or Los Angeles during the last week of the year to qualify for that year's Academy Award nominations and then later be taken into *wide release* of up to 2,000 national playdates (i.e., engagements/ theaters). Or there may even be massive simultaneous *saturation release* on more than 3,000 screens at the seasonal peaks for which strategically important prospective dates (that purposely exclude World Cup and Olympic event periods) are staked out for up to five years ahead of time. Regional or highly specialized release is appropriate if a picture does not appear to contain elements of interest to a broad national audience. And simultaneous global release is now often used to thwart unauthorized copying.

Since the 1960s, exhibitors have tended to consolidate into large chains operating multiple screens located near or in shopping-center malls in order to achieve economies of scale. Meanwhile, older movie houses in decaying center-city locations have encountered financial hardships as the relatively affluent consumers born after World War II have grown to maturity in the suburbs, and as crime and grime and scarcity of parking spaces have often become deterrents to regular moviegoing by city residents.

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◇◇ DEFINITIONS ◇◇◇

- ◆ **digital platforms** systems providing a technological architecture that allows different types of users and complementary business partners to connect and benefit from the platform's base functionality; *platforms*
- ◆ **globalization (2)** worldwide dissemination of a phenomenon or a trend
- ◆ **social media networks** websites or software programs that enable people who share similar interests to communicate with each other by posting text and pictures; *social networking sites, social networks*
- ◆ **industry segments** categories within the film business, such as production, distribution or exhibition
- ◆ **scoring** process of creating the musical accompaniment for films
- ◆ **editing** the work of selecting and joining together shots to create a finished film
- ◆ **mixing** the electrical combination of different sounds, dialogue, music, and sound effects from microphones, tape, and other sources onto the film's master soundtrack during post-production
- ◆ **prints** copies made from the master of original light images (negatives) captured on film; *positive images*
- ◆ **marginal revenue** the additional receipts that a seller receives from putting one more unit of output on the market
- ◆ **revenues per unit time** receipts generated per user or unit which can help investors to identify which products are likely to generate high or low cash returns
- ◆ **theatrical release** the date a new film is distributed to movie theaters for public viewing
- ◆ **licensing (1)** granting official authorizations to show motion pictures
- ◆ **television networks** corporations or groups of companies that disseminate television programs throughout an area; *networks*
- ◆ **syndicators** companies which negotiate agreements authorizing television stations to re-use previously exhibited films, in return for a fee; *syndication companies*
- ◆ **periods of exclusivity** a contractual restriction on the period during which a distributor may exploit a licensed right; *holdbacks, holdback periods*
- ◆ **income** gross margin of a company minus its operating expenses; *earnings, net income, net profit*
- ◆ **distributors** companies or individuals that have exclusive responsibility for releasing films to the public for theater or home viewing; *film distributors*
- ◆ **price-discriminate** to charge customers different prices for the same product or service, especially the maximum price each customer is willing to pay
- ◆ **windows** the periods of time during which contracts permit exclusive screenings in a film market; *market release windows*
- ◆ **scarcity** market situation in which the supply of a product is insufficient to meet the demand
- ◆ **terms** the conditions under which the distributor agrees to sell a product for exhibition in a given theater; *terms of contract*
- ◆ **public good** a good for which the costs of production are independent of the number of people who consume it, that is, one person's consumption does not diminish the quantity available to others
- ◆ **distributor-exhibitor contracts** mutually binding agreements between distribution companies and movie-theater proprietors enabling them to screen motion pictures at specified dates; *contracts*
- ◆ **marketing campaigns** concerted action taken by a company to increase consumer awareness of a product, service or business organization

- ◆ **target audiences** the people for whom a film is primarily intended and to whom it is most likely to appeal
- ◆ **studio** a company that makes its own movies and TV shows and has established facilities which it rents to other production companies, producers, writers and directors; *film studio*
- ◆ **green light** to give the go ahead for a film to be made or acquired
- ◆ **theaters** the buildings in which motion pictures are screened for public viewing; *movie theaters, movie houses, cinemas*
- ◆ **exhibition chains** groups of movie houses or cinemas which belong to one firm or brand and which operate nationwide or worldwide
- ◆ **marketing mix** a framework consisting of four variables of a product's marketing plan commonly termed as 4Ps: product, price, place, and promotion, which are adjusted until the right combination is found that serves the needs of the product's customers while generating optimum income
- ◆ **bid letters** written notifications from a distributor to all motion picture exhibitors who own or operate theaters in a market area, informing them that a specific motion picture is available for showing in that area on or about a certain date and inviting them to submit a bid to license that picture; *bid request letters*
- ◆ **playing times** the times at which a film is scheduled to show in a movie theater; *showtimes*
- ◆ **regional branch exchange** the local office of a film-distribution company which is responsible for licensing films, servicing prints to legitimate customers, and collecting on film rentals due in a given territory; *branch sales office*
- ◆ **film bookers** people who arrange to purchase films from a distributor on behalf of an exhibitor; *film buyers*
- ◆ **bid for** to negotiate the screening rights on behalf of an exhibitor for a motion picture to begin on a specified date in a given market
- ◆ **runs** the number of showings for which a film is booked
- ◆ **playdates** the dates for which theaters have booked the screening of a film
- ◆ **box-office gross** the cash value of total annual ticket sales resulting from the public screening of motion pictures in movie theatres; *box-office receipts, box office revenue*
- ◆ **trailers** advertisements for movies which contain scenes from coming films and which are often presented at the showing of other films
- ◆ **network television campaigns** marketing campaigns broadcast on TV which are aimed at promoting new theatrical film releases
- ◆ **word-of-mouth advertising** the process in which film-goers recommend to their friends a new movie that they have enjoyed
- ◆ **Academy Award (s)** a set of prizes rewarding artistic and technical merit in the film industry, given annually by the American *Academy of Motion Picture Arts and Sciences*; *Oscars (the)*
- ◆ **seasonal peaks** recurrent periods during which an exceptionally high number of theater admissions are recorded
- ◆ **unauthorized copying** violation of the rights secured by a copyright; *copyright infringement*
- ◆ **shopping-centre malls** shopping precincts in which one or more buildings form a complex of shops with interconnecting walkways that enable customers to walk from one shop to another
- ◆ **economies of scale** gains in operating costs achieved as a result of the grouping together of exhibitors into large exhibition chains
- ◆ **consumers** buyers of goods and services who use them to satisfy their needs

◇◇ EXERCISES ◇◇◇

◇ EXERCISE 1

*Comprehension***Answer these questions**

1. What effect has technological development had on the creation and distribution of film content?
2. What are the main post-production stages a film goes through once shooting has been completed?
3. Why are films first distributed to movie-theaters before any other market?
4. What tools do film distributors use to maximize their income?
5. How do distributors circumvent unauthorized copying?
6. What is the main factor that distributors consider when designing a marketing campaign for a new release?
7. How do distributors match film releases with suitable theaters?
8. Under what circumstances would bid request letters be the preferred method of marketing a film?
9. What do standard distributor-exhibitor contracts generally stipulate?
10. Why have exhibitors tended to consolidate into large chains?

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above **to select the appropriate term** to fit each sentence

1. For most pictures, the greatest marginal remain those derived from theatrical issue, and most pictures need theatrical release to generate interest from sources further down the line.
2. To abide by the law, distributors refrain from a series of films to theaters as a means of financing their production.
3. Aggregate booking contracts are those in which a of, say, \$10,000 might be split 55% for the distributors and 45% for the exhibitors, so that the theater would retain \$4,500.
4. Flat rental is a type of contractual arrangement in which exhibitors pay a fixed fee to for the right to show a film during a specified period.
5. No exhibitor would want to meet costly lease for a film that would soon or, even worse, simultaneously be playing at a competitor's theater down the block.
6. Distributors have no choice but to spend aggressively on their if only to defend against may other films vying to be noticed at the same time.
7. always include a schedule of admission prices, the number of showings on weekends and weekdays, the number of seats in the auditorium in which the film is expected to play, and other conditions that the distributor might find desirable.
8. Pledges of substantial sums from exhibitors may be required for theaters to secure important pictures in the most desirable, such as the week from Christmas through New Year's.
9. Exhibitors sometimes complain that distributors force them to pictures they have not been given an opportunity to evaluate in a screening.
10. The of movies on the Internet had by 2003 already risen to the point that many films were commonly available on the Net even before theatrical release.

(B) Find words or phrases in the text, which mean the following

1. The process of making a movie available for viewing by an audience
2. The phase of movie making during which principal photography occurs
3. The act of making a new film available for public viewing in a movie house
4. A unifying idea that is repeated or developed throughout a film.....
5. A class or type of film in terms of narrative style or thematic elements
6. The screening of a movie for a contractually specified number of weeks in a theater.....
7. The large flat surfaces on which movies are shown
8. The areas in movie theaters where films are viewed
9. The distribution of a new film to a large number of theaters on a national scale:
10. The distribution of a new film, which is of interest to a restricted audience:

◇ EXERCISE 3

Grammar

Determiners

Supply the **missing articles** where necessary in the text below

On Film Performance

..... (1) pressure to do well on opening weekends has been significantly intensified in (2) recent years. It all began with *Jaws* in 1975, which was (3) first major film nationally advertised and widely released, on over 700 screens. Nowadays, (4) pictures that do less than \$25 million in (5) domestic box office on (6) opening weekend are likely to be pulled rather quickly. Conversely, (7) film that declines by 20% or less on its *second* weekend is considered to be (8) potentially large winner. As of 2004, it was no longer unusual for (9) films to drop 50% by (10) second weekend, as compared with half that percentage ten years earlier. (11) first weekends used to account for (12) average of 20% to 25% of (13) film's total receipts, but that percentage has risen toward 33%. Since (14) early 1990s, (15) seasonality has begun to blur at (16) edges, and it is thus less of (17) issue given (18) large number of screens in modern theaters and (19) sophisticated marketing campaigns that (20) studios now launch year-round.

◇ EXERCISE 4

Assignment

Class Discussion

After studying the statements below, **arrange** them in their logical order so as to reconstruct the stages a film would go through to get to the screen. Then **discuss** your choice with the class.

- a) The distribution company determines how many copies (prints) of the film to make.
- b) You buy a ticket and watch the movie.
- c) Someone has an idea for a movie.
- d) The studio makes a licensing agreement with a distribution company.
- e) The buyers negotiate with the distribution company on which movies they wish to lease and the terms of the lease agreement.

- f) They create an outline and use it to promote interest in the idea.
- g) The prints are sent to the theaters a few days before the opening day.
- h) The distribution company shows the movie (screening) to prospective buyers representing theaters.
- i) A studio or independent investor decides to purchase rights to the film.
- j) At the end of the engagement, the theater sends the print back to the distribution company and makes payment on the lease agreement.
- k) The film is completed and sent to the studio.
- l) The theater shows the movie for a specified number of weeks (engagements).
- m) People are brought together to make the film (screenwriter, producer, director, cast and crew).

Case Study

Choose any motion picture released over the last decade and **describe** the specifics of how it was marketed and distributed to exhibitors. **Point out** any difficulties it encountered in finally getting to the movie-theater screens.

Report back to the class in a 15-minute oral presentation.

CHAPTER 18

OPPORTUNITY MANAGEMENT

◇ Useful words and concepts

opportunity management

growth opportunities

customers

hamper

operating costs

margins

company

sales

venture

organizational skills

businesses (2)

capabilities

routines

do business with

opportunity cost

allocated

value

portfolio

ineffective

eventually

an array of

positioning

core customers

value

an array of

spectrum

transaction buyers

spot market

relationship buyers

purchasing

lack

switching costs

assets

benefits

total life cycle costs

meeting

specifications

scope

fungible

enterprise software

vendor

support

upgrade

processes

altered

commitment

executives

loyal (customers)

selling cycle

likely

consistent

threshold levels

proposals

custom product

requirements

after-sale support services

worth it

product offering

sales management

coverage model

sales tools

product development

failure

solutions sales approach

chasing away

salespeople

available

make the numbers

business plan

available

dilutive

transaction selling

approach

early adopters

relevant

crafting

Instructions For Study

1. Turn to the **definitions** following the text *Opportunity Management*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**. Study them closely and pinpoint them in the text.
2. Use an **English** language dictionary to check the meanings (in context) of the other words in the list.
3. Do the exercises to improve your language skills.

Opportunity Management

Many companies pursue growth opportunities without adequately defining who their ideal customers are. That lack of clarity can hamper profitable growth. Customer selection impacts not only operating costs and margins; in an entrepreneurial company, initial sales also influence the venture's trajectory of organizational skills, because businesses develop capabilities and routines in the process of interactions with customers. The choice to do business with a customer also represents an opportunity cost: The money, time and people allocated to customer A are resources not available for customers B, C and D. The fact is that no matter how large or fast growing a market may seem to the entrepreneur, the venture can add and extract more or less value from different opportunities in its portfolio of market possibilities. In a competitive market, moreover, ineffective opportunity management eventually leads to loss of money, time and positioning with customers who are (or should be) core customers. The company runs the risk of becoming better and better at activities that core customers value less and less.

Most markets present businesses with an array of customer opportunities. At one end of the spectrum are transaction buyers in what is essentially a "spot market". At the other end are relationship buyers. Transaction buyers have short time horizons when purchasing in the venture's product category. In such markets, the lack of switching costs means that buy/sell adjustments are easy to make. Because transaction buyers invest little in specialized procedures or assets when purchasing in that category, they are less interested in the wider system benefits (or total life cycle costs) that the venture may offer. These buyers purchase a product for its price and performance at a point in time. This does not mean that these buyers are uninterested in quality or value. Rather, they define value as meeting specifications and do not want to pay for a product or service whose quality, applications or scope exceed what they want at that point.

In contrast, relationship buyers have a longer time horizon. There is something about the product, seller or buyer that motivates them to make larger investments in specialized procedures or assets. Once made, the investments are not easily fungible. Enterprise software offers a good example. Historically, the choice of an enterprise software vendor has been a multiyear choice of support, upgrade and other processes — a choice not easily altered after the fact. Because of these investments and switching costs, buyers are interested in the wider system benefits and in choosing a longer-term business partner. Hence, they are legitimately interested in knowing more about the seller's organization, commitment to the category, future plans, etc.

Many executives prefer relationship buyers in the belief that these customers will pay higher prices and be more loyal. But the selling cycle with the relationship buyer is also likely to be longer and more complicated. In general, transaction buyers want products and services that are consistent, standardized and easy to purchase at a given point in time. This means sellers need to provide appropriate selection and threshold levels of quality at an acceptable price. Relationship buyers, on the other hand, want to understand the quality and applicability of the particular solution and its feasibility over time.

To be successful, businesses need to align their selling program with the customer opportunities. If they're selling solutions to relationship customers, they need to be sure that the longer selling cycles, multiple requests for proposals, custom product requirements and after-sale support services are necessary and "worth it." In contrast, if they're focusing on transaction buyers, companies need to find ways to take costs out of the selling process, product offering and after-sale support services. Such decisions have implications not only for sales management (for example, who is hired, the coverage model and relevant sales tools) but also for product development, finance and other aspects of the business.

There are two types of failure in opportunity management. One type involves going after transaction buyers with a solutions sales approach. In such cases, transaction buyers would do the company a favor by chasing its salespeople away. Instead, such buyers tend to seek out more information about product possibilities and available services and then use the information in setting specifications with transaction sellers. New ventures, in particular, commonly overestimate their ability to acquire relationship buyers in their market. The result is that they often fail to make the numbers in the business plan and are forced to raise a dilutive round of additional capital to remain in business.

The second type of error in opportunity management occurs when businesses go after relationship opportunities with a transaction selling approach. Since the buyers in such situations are looking for a solutions-oriented relationship, they reject the offering, and the company misses a chance to compete in a market it wants or needs.

Responding to a sales opportunity, therefore, is a choice but not a binary — yes/no — decision. In new ventures, entrepreneurs almost always find that until they are out there selling, they really don't know the crucial differences between early adopters and other customers along the relevant spectrum of opportunities. To grow, the venture needs processes for learning about these differences and the responses available. An understanding of the venture's core customer profile should drive the crafting of the relevant processes.

Excerpt from: Frank V. Cespedes, James P. Dougherty and Ben S. Skinner II, *How to Identify the Best Customers for your Business*, MIT Sloan Management Review, Winter 2013.

◇◇ DEFINITIONS ◇◇◇

- ◆ **opportunity management** the filtering, prioritizing, processing and tracking by companies of real sales possibilities
- ◆ **growth opportunities** real possibilities of business expansion leading to a profit for the investor
- ◆ **operating costs** money spent in carrying out a company's day-to-day activities such as rent, utility bills, amortization, rather than in the direct production of goods and services; *overhead costs, overheads*
- ◆ **margins** net profit from operations divided by net sales and expressed as a percentage; *profit margins*
- ◆ **company** a commercial or industrial organization that aims at making a profit by doing business; *business enterprise, firm*
- ◆ **venture** a business, or a business deal, especially a new one, in which there is a substantial element of risk; *business venture*
- ◆ **organizational skills** the ability of an individual or an organization to use time, energy and resources in a way that helps desired results to be achieved
- ◆ **businesses (2)** commercial or industrial organizations that aim at making a profit through their activities; *business enterprises, firms*
- ◆ **do business with** to engage in commercial activity with
- ◆ **opportunity cost** what must be given up to acquire or achieve something else.
- ◆ **value** the monetary worth of a good or service sold
- ◆ **positioning** the marketing strategy aimed at creating a suitable brand image in the mind of the customer
- ◆ **core customers** the right people or businesses most likely to buy and get the most value from your services and/or products
- ◆ **value** to consider important
- ◆ **transaction buyers** customers who purchase a product for its price and performance at a point in time
- ◆ **spot market** one in which goods are sold for cash and delivered immediately
- ◆ **relationship buyers** customers interested in establishing a long-term business partnership with the seller
- ◆ **switching costs** fixed costs incurred by a buyer when changing suppliers
- ◆ **assets** resources that a company owns or is owed and which can be converted into cash; *business assets*
- ◆ **benefits** advantages such as ease of ordering, delivery, credit facilities, maintenance or warranty which consumers seek from buying a particular brand or product
- ◆ **total life cycle costs** sum of all recurring and non-recurring costs over the full life span or a specified period of a good or service; *cradle to grave costs*
- ◆ **specifications** written guidelines that precisely define the operational, physical and/or chemical characteristics, as well as the quality and quantity of a particular item to be acquired
- ◆ **enterprise software** computer applications designed to integrate all aspects of a firm's operations and processes
- ◆ **vendor** a company that sells a particular product
- ◆ **support** services that help enhance the benefits and satisfaction consumers receive from products such as the periodic maintenance or repair of equipment by its manufacturer or supplier during and after a warranty period; *product support services, after-sale support services*
- ◆ **upgrade** newer version of a computer hardware or software

- ◆ **processes** the procedures, flows of activities or sequences of tasks designed to make products
- ◆ **executives** individuals in a company in charge of deploying resources and making policy decisions by planning, organizing, staffing, directing, coordinating and budgeting the activities of the firm
- ◆ **selling cycle** the time that elapses between the initial contact with a customer and the completion of the transaction; *sales cycle*
- ◆ **proposals** documents submitted to customers or potential customers with details of your offer to supply a product or a service
- ◆ **custom product requirements** mutually agreed specifications designed by a supplier specifically for a particular customer's products
- ◆ **product offering** the range of products a company puts on sale
- ◆ **sales management** the organization and coordination of efforts aimed at attaining a company's sales objectives
- ◆ **coverage model** the extent of clients targeted
- ◆ **sales tools** strategies, facilities, equipment or instruments used to increase the efficiency and effectiveness of sales
- ◆ **product development** the creation of products with new or different characteristics that offer new or additional benefits to the customer
- ◆ **solutions sales approach** when a company sets out to meet a clearly defined set of customer specifications
- ◆ **salespeople** individuals employed to promote or sell goods and services to customers
- ◆ **business plan** set of documents showing a company's operational and financial objectives for the near future and the manner in which they will be achieved
- ◆ **dilutive** having the effect of reducing earnings per share
- ◆ **transaction selling approach** sales strategy that involves focusing on achieving quick sales without a significant attempt to form a long-term customer relationship

◆◆ **EXERCISES** ◆◆◆

◆ EXERCISE 1

Comprehension

True / False Circle the correct choice and justify your answer

- | | |
|---|-------|
| 1. Opportunity management maintains that for a company's growth to be profitable, core customers should be properly identified first. | T / F |
| 2. Poor opportunity management may detract entrepreneurs from offering products and services with higher customer value. | T / F |
| 3. Transaction buyers seek to establish long-term partnerships with the ventures they trade with. | T / F |
| 4. Transaction buyers value standard products or services that not only meet required specifications but also offer extra benefits. | T / F |
| 5. Relationship buyers, on the other hand, value custom products and invest in the specialized procedures needed to make them. | T / F |
| 6. Executives prefer relationship buyers because they are less demanding on product quality and price. | T / F |

- | | |
|---|-------|
| 7. The selling process of products is longer and costlier to transaction buyers than it is to relationship buyers. | T / F |
| 8. In managing customer opportunities, businesses need to align their selling program with the type of buyer if they want to succeed. | T / F |
| 9. Failure in opportunity management is due to a mismatched alignment of solutions and selling approaches with the type of customer. | T / F |
| 10. Entrepreneurs often know their ideal customer profile when they start new ventures. | T / F |

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above **to select the appropriate term** to fit each sentence

- Intelligent helps companies adjust their selling initiatives.
- Even online businesses have such as server space and server maintenance costs which can still prove expensive.
- The company's have been seriously undermined by the downturn in business activity.
- A new business is seldom successful in building a loyal customer base in its early stages of development.
- In any company, the people with the best understanding of the behavior that distinguishes transaction and are the people in sales, marketing and support services.
- The markets a serves are generally partitioned into segments.
- As customers use the product, the company modifies the offering and associated with making and using it.
- Long sales cycles typically require multiple, demonstrations and calls.
- A company will sometimes bundle products and services in its to win over new customers.
- Many executives encourage their to explain the benefits of the product they sell to the client.

(B) Match the words and expressions in column **(A)** with their meanings in column **(B)**

(A)	(B)
1. competitor's customers	a. those who were the first to start buying your products or services
2. core customers	b. people or companies who buy your goods or services on a regular basis
3. customers	c. those who buy goods similar to yours but which are produced by a business rival
4. early adopters	d. individuals or organizations no longer buying your products
5. enquirers	e. individuals or organizations recommended to your company as possible customers
6. existing customers	f. people who have expressed interest in your products but who have yet to place an order
7. lapsed customers	g. potential buyers of your products or services

(A)	(B)
8. loyal customers	h. people or organizations currently buying your products or services
9. prospects	i. individuals or organizations that are currently buying your goods or services
10. referrals	j. established buyers of your products or services

◇ EXERCISE 3

Grammar

Nominal compounds

(A) **Find** examples of nominal compounds in the text

(B) In the following sentences, **rewrite** the phrases in *italics* as nominal compounds

1. *Efficiencies of production* reduced the cost of goods sold at the average S&P 500 company by about 250 basis points between 2000 and 2010.
2. Promising ventures can gain greater insight across the business by extending their *channels of distribution*.
3. *The requirements of a customer* can affect the stream of orders for the seller.
4. Companies need to devise a flexible sales model which is easily adaptable to *changes in the market*.
5. Entrepreneurs regularly devise new *plans for the development of products*.
6. *Programs for the training of staff* are commonly set up in the workplace.
7. Salespeople are usually appraised in terms of their *rates of customer renewal*.
8. Gaining a better understanding of core customers will help companies identify key links in developing *opportunities for new business*.
9. Not all new ventures are able to define clearly their *criteria for the selection of core customers*.
10. A good *process for the identification of the ideal customer* results in good sales figures.

◇ EXERCISE 4

Assignment

Case study

Select a business venture and the type of customers it serves. Identify the category of buyers who constitute its core customers, its transaction customers and its relationship customers, respectively. Assess the criteria the company uses to categorize them. Work in pairs.

Report on your findings in a 15-minute oral presentation.

CHAPTER 19

SERVICE PRODUCTIVITY

◇ Useful words and concepts

service productivity

businesses (2)

quest

productivity gains

seek

output

yielding

advanced economies

service sector

devote

designing

automated processes

executives

wealth

outcome

strategic decision variable

business (1)

technology

customer satisfaction

efficiency

optimal productivity level

likely

margins

Co.

Inc.

supermarket chains

upscale

retailer

incentive

labor

grocery

provision

concentrated

few

competitors

wages

automate

self-service

revenue

wage rates

counterpart

Ltd

factory

assembly line

robots

incidences

zoning restrictions

spectrum

high-wage societies

service employees

high-end restaurants

outsourcing

offshore call centers

evidence

offset

labor dollars

balance

enhancing

Instructions For Study

1. Turn to the **definitions** following the text *Service Productivity*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**. Study them closely and pinpoint them in the text.
2. Use an **English** language dictionary to check the meanings (in context) of the other words in the list.
3. Do the exercises to improve your language skills.

Service Productivity

Many contemporary businesses are on a quest for productivity gains. They seek to maintain quality and quantity of output at ever-decreasing cost, yielding higher profitability. As advanced economies move more into the service sector, that means many managers devote a lot of attention to designing automated processes that reduce the need for people — typically their most expensive resource. Executives think about productivity as something to be maximized. After all, at a macroeconomic level, more productivity always means more profit and ultimately more wealth. But at a micro level, instead of seeing productivity as an outcome to be maximized, it is better for service companies to view productivity as a strategic decision variable that depends on the business and the technology used. A company needs to choose the right level of productivity, neither too high nor too low, to maximize its profitability.

The key to making decisions about productivity is considering two factors: (1) the state of the technology and (2) the relative importance of customer satisfaction. In particular, the importance of customer satisfaction is too often underestimated. When customer satisfaction is more important than efficiency, a service company's optimal productivity level should probably be comparatively lower. Intuitively, this makes sense: Satisfying the customer in a service business is all about anticipating needs, and the greater the number of people available to satisfy those requests, the more satisfied the customer is likely to be.

When should customer satisfaction be given more weight than efficiency? When margins are higher. The Kroger Co. and Whole Foods Market Inc. are both U.S.-based supermarket chains, but Whole Foods, a more upscale food retailer chain based in Austin, Texas, has an incentive to use more labor to serve grocery customers. In other words, the same factors that encourage the provision of better service quality also encourage a lower level of productivity.

When to emphasize service productivity

On the other hand, there are businesses where, in effect, “your call *is not* all that important to us.” If the company's industry is highly concentrated (in other words, there are few competitors) and the customers have fewer alternatives, customer service tends to be less of a priority. Customer satisfaction may be less important, because customers will choose from among fewer competitors. In such a condition, a service company might reduce its labor (increase its productivity) and not worry about losing the customer. With less need to compete, productivity should be higher.

Second, if wages are higher, it becomes more expensive to provide good service. In such a case, the company may wish to automate more, pushing its customers to self-service. Customer satisfaction may suffer somewhat, but the loss of revenue might be made up for by the reduction in costs. So if wages are higher, productivity should be higher.

In order to figure out what productivity level to seek, it is better to compare the company strategically to its competitors. For example, does it have higher prices and/or higher margins than its competitors? If so, this suggests the company should have a lower level of productivity than its competitors. Wage rates can also be analyzed in this way. For example, if a U.S. company is competing against a Chinese company, the U.S. company should probably seek to use less labor (be more productive) than its Chinese counterpart. In the late 1990s, at a time when Chinese wage rates were still very low, a factory belonging to Nissan Motor Co Ltd located near Guangzhou had an army of workers making each car. At the same time, at the company's Altima assembly line in Japan, where wages were high, the car was manufactured almost entirely by robots.

One can get a better intuitive sense of how to manage service productivity by considering coincidences of high productivity and low productivity. Imagine a fast food restaurant in Santa Barbara, California. This is a low-price, low-margin industry located in a wealthy town, where wage rates are high. Zoning restrictions may limit the number of such restaurants, resulting in low competition. Under such conditions, the restaurant should minimize its usage of labor and automate as much as possible. This is the perfect high-productivity situation.

At the other end of the service spectrum, consider an expensive French restaurant in Shanghai, China. Prices and margins are high. At the same time, wages are relatively low and there are many competitors. Under these conditions, the restaurant should use as many employees as it takes to satisfy the customer. In fact, that is often what you see: Visitors from high-wage societies are frequently astonished by the number of service employees in high-end restaurants in cities like Shanghai and Beijing, but they shouldn't be. That is the perfect low-productivity situation.

Identifying an optimal level of productivity

As executives at service companies, you should compare your company with your competitors. If your prices and margins are lower, and your employees have higher wages, then a higher productivity strategy is in order. Try to automate more than your competitors. If the opposite is true, focus on providing the best service in your industry, even at the expense of productivity. Where you can get higher customer satisfaction, use labor where other companies use automation. Think carefully before outsourcing services, for example, through offshore call centers, by seeking evidence that the probable decline in customer satisfaction will be offset by increased productivity in labor dollars.

Service companies shouldn't maximize productivity. Rather, they should find the most profitable level of productivity. By managing service productivity as a strategic decision variable, a company can balance efficiency with customer satisfaction, enhancing the long-term health and profitability of the company.

Excerpt from: Ming-Hui Huang & Roland T. Rust, *Should Your Business Be Less Productive?*
[MIT Sloan Management Review](#), Spring 2014.

◆◆ DEFINITIONS ◆◆◆

- ◆ **service productivity** the measurable efficiency of a business in converting input resources into value for customers
- ◆ **businesses (2)** commercial or industrial organizations that aim at making a profit through their activities; *business enterprises, firms*
- ◆ **productivity gains** increased efficiency achieved by an organization through a more effective use of labour and capital
- ◆ **output** the quantity of goods or services produced over a given time period by a firm or industry
- ◆ **advanced economies** highly-developed economies in which sectors of industry use the most modern and recently developed technology and methods in producing goods or providing services
- ◆ **service sector** companies that provide intangible products and services; *service industry*
- ◆ **automated processes** methods of using machines and computers in the workplace aimed at reducing labor costs; *automation*
- ◆ **executives** individuals in a company in charge of deploying resources and making policy decisions by planning, organizing, staffing, directing, coordinating and budgeting the activities of the firm
- ◆ **wealth** the sum of tangible and intangible assets that make an individual or an organization better off
- ◆ **strategic decision variable** factor that shapes the success of a company's long-term plans
- ◆ **business (1)** type of activity taking place in a profit-oriented organization such as a company or a shop
- ◆ **technology** information or scientific knowledge used in the design, production and utilization of goods and services and in the organization of human activities
- ◆ **customer satisfaction** the fulfillment of customers' requirements or needs
- ◆ **efficiency** achieving the desired results with little waste of resources
- ◆ **optimal productivity level** the level of productivity required, neither too high nor too low, to maximize profitability
- ◆ **margins** net profit from operations divided by net sales and expressed as a percentage; *profit margins*
- ◆ **Co.** abbreviation of the word company, used to designate an entity as a company but carrying no specific legal meaning and referring to no particular legal structure
- ◆ **Inc.** abbreviation standing for Incorporated, placed after the name of a company in the US, to show that it is a separate entity from shareholders who cannot be held liable for any fiscal obligations
- ◆ **supermarket chains** big self-service retail stores, which have branches spread across the country and which sell a large variety of food and household items
- ◆ **upscale** expensive and designed to attract customers with money to spend; *upmarket*
- ◆ **retailer** a business at the end of the distribution chain, which generally buys a product from a wholesaler in order to sell it to the final consumer
- ◆ **labor** the human factor of the production process; *workers*
- ◆ **concentrated** dominated by a few large firms
- ◆ **competitors** firms that are rivals in business; *business rivals*
- ◆ **wages** workers' remuneration for the services of their labor; *pay*
- ◆ **revenue** the total amount of money received by a business in a specified period before any deductions are made for costs, raw materials or taxation; *sales revenue, sales turnover*

- ◆ **wage rates** amount of workers' pay based on units or periods of working time
- ◆ **Ltd** abbreviation standing for limited, placed after the name of a company to show that the company is a limited liability structure with independent corporate identity
- ◆ **factory** the equipment, including the fixtures, machinery, tools and buildings necessary to carry on a manufacturing business
- ◆ **assembly line** a production tool in which a conveyor belt carries the work in progress along a line of machines, robots and/or workers performing a specific task repeatedly until the product is finished
- ◆ **zoning restrictions** limits set by the law specifying the urban areas in which residential, industrial, recreational or commercial activities can take place
- ◆ **high-wage societies** countries or economies in which labor costs are high
- ◆ **service employees** the lower echelons of personnel serving customers in shops and restaurants
- ◆ **outsourcing** contracting or sub-contracting to other firms in order to free up human and financial resources, time and facilities for other activities
- ◆ **offshore call centers** telephone service companies based in other countries from which they handle a large number of calls on behalf of other companies at a much lower cost
- ◆ **labor dollars** labor productivity computed in dollar terms

◆◆ **EXERCISES** ◆◆◆

◆ EXERCISE 1

Comprehension

Circle the correct statement (a), (b) or (c)

1. Contemporary businesses aim at higher profitability by
 - (a) reducing costs continuously
 - (b) maintaining the quality and quantity of their output
 - (c) automating their working methods
2. From a macroeconomic vantage point,
 - (a) lower productivity levels generate more wealth
 - (b) higher productivity levels generate more wealth
 - (c) constant productivity levels generate more wealth
3. Viewing productivity as a strategic decision variable means
 - (a) maximizing productivity levels to maximize profits
 - (b) minimizing productivity levels to maximize profits
 - (c) optimizing productivity levels to maximize profits
4. Customer satisfaction in a service business requires
 - (a) a greater number of workers
 - (b) a lower number of workers
 - (c) a constant number of workers

5. The comparison between Kroger Co. and Whole Foods Market Inc. shows that customer satisfaction can be achieved by
 - (a) maintaining high labor productivity
 - (b) reducing labor costs
 - (c) increasing service staff
6. In a concentrated market, however, a service business
 - (a) can easily automate to satisfy customer needs
 - (b) requires a greater number of workers to satisfy customer needs
 - (c) customers can choose from many other service businesses to satisfy their needs
7. In a situation of market concentration,
 - (a) higher profit margins lead to a higher optimal productivity level
 - (b) higher wage rates lead to a higher optimal productivity level
 - (c) higher prices lead to a higher optimal productivity level
8. A perfect high productivity situation is one in which
 - (a) competition, prices and margins are low but wage rates are high
 - (b) competition, prices, margins and wage rates are high
 - (c) competition, prices, margins are high but wage rates are low
9. A perfect low productivity situation is one in which
 - (a) competition, prices, margins and wage rates are high
 - (b) competition, prices, margins and wage rates are low
 - (c) competition, prices and margins are high but wage rates are low
10. To choose the most profitable level of productivity, it is advised to consider competitor practices before
 - (a) automating or outsourcing
 - (b) outsourcing or offshoring
 - (c) increasing labor dollars

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above **to select the appropriate term** to fit each sentence

1. In service businesses, are not always easy to make without sacrificing perceptions of quality.
2. Information and communications technologies have made it possible for companies to develop close relationships with customers without a large increase in
3. In the tertiary sector, unlike on the assembly line, increased may not always lead to increased profitability.
4. Advances in online technology have enabled online travel services to increase their productivity with no damage to
5. In a service business, productivity must be treated as a
6. Higher discourage investment in the service sector.
7. The search engine industry in America is highly concentrated given that three major, namely Google, Yahoo and Microsoft share the market.
8. Today, the accounts for about 80% of the US economy.
9. Robots have replaced servers and kitchen staff in a lot of restaurant chains in Japan, due to the growing reliance on
10. In a financial downturn, the natural impulse of is to cut costs drastically.

(B) Replace the words or expressions in *italics* with equivalent ones from the text

1. *Satisfying the customer* is a must for a service company to remain competitive.
2. The *search* for higher margins requires a radical rethink of company policy.
3. Service businesses should focus their strategy on finding the *most profitable level of productivity*.
4. Well-to-do tourists enjoy dining at *high-end* restaurants in the select districts of Paris.
5. To boost customer satisfaction a company has *every reason* to take on more service employees.
6. *Salaries* tend to be higher in advanced economies than in emerging ones.
7. Toyota opened a *manufacturing plant* in the North of France in 1999.
8. Humans are not the only workers to be found on a *production line* nowadays.
9. Companies can reduce costs by *contracting or subcontracting* non-core activities such as recruitment or cleaning to specialized service companies.
10. In some service companies, diminishing customer loyalty may be *made up for* by greater cost efficiency.

◇ EXERCISE 3

Grammar

Comparisons

Complete the sentences below with the expressions of comparison in the list

compared to / faster / faster than / fewer than / lower than / higher (2x) / higher than / less than / more than (2x) / smarter than / unlike

1. Between 2007 and 2009, Alaska Airlines experienced an 18% improvement in labor productivity, a percentage that was significantly the industry average at the time, after it had deployed a new check-in system at Anchorage International Airport.
2. Workers are generally productive robots on automobile assembly lines.
3. Online tracking in the express delivery business has resulted in increased labor productivity at FedEx Corp, where in 2003 it cost \$2.40 for a customer service representative to track a package for a customer who called on the phone just four cents to track a package online.
4. As a result of automating the delivering and serving of sushi plates by conveyor belts, Kura, a restaurant chain in Japan, needed servers and kitchen staff before to serve a 196-seat restaurant.
5. Jetstar Airways Ltd, the Qantas budget airline in Asia-Pacific, has adopted a production-oriented high efficiency strategy, which enabled it to attain turnaround times and scheduling competitors.
6. Singapore Airlines Ltd is highly efficient in non-customer facing operations but as it lavishes attention on its customers, the company maintains prices and a profit margin with productivity its Asian competitor China Eastern Airlines Corp. Ltd.
7. Managers erroneously think that they will make money by increasing short-term productivity by building long-term projects.
8. The temptation to increase productivity by reducing labor is huge for managers of large companies, for whom economies of scale seem to make automation attractive it is for managers of small service businesses.

9. Following the tragedy of September 11, 2001, almost all major US airlines instituted massive layoffs to cut costs except Southwest Airlines, which, with high customer satisfaction scores, thrived throughout the ensuing decade, some of its competitors.
10. According to the Ford Marketing Institute, grocery shoppers are satisfied when dealing with a human being with self-serve checkouts in supermarkets.

◇ EXERCISE 4

Assignment

Case study

Choose a service business and **identify** a *task* it has automated. **Discuss** the advantages and/or drawbacks related to the introduction of the automated process for both the company and its customers. **Assess** the impact of automation on the company's workforce and on its service productivity.

Report back to the class in a 15-minute oral presentation.

CHAPTER 20

TELEVISION MARKETS, LICENSING AND SYNDICATION

◇ Useful words and concepts

licensing (1)

syndication

threaten

tube (the)

mesmerizing

ubiquitous

theater

admissions

peak

eventually

ancillary market

studios

engage in

features

networks

breaks down

primary segments

pay-per-view

premium cable

Internet streaming

earnings

aftermarkets

American Broadcasting

Company

pay cable

ratings

bid for

exhibit

theatrical hits

runs

escalator clauses

box-office performance

showings

uncut

commercials

average

allotted

running time

license fees

residual payments

legal talent

network television

studio-distributor

profit margin

in the range of

distributors

allocation

rationale

domestic

foreign

funding

scheduled

commitment

option contract

audiences

taping

completion

clearance

censors

deal

rerun

producers

out-of-pocket

cash expenditures

incurred

recouped

remainder (the)

revenues

option clauses

performers

broadcast seasons

order

likely

investor groups

prime time

shoot

edit

shift

Internet-based viewing

platforms

strip

expenses

shipping

advertising

prints

gross income

sales

Instructions For Study

1. Turn to the **definitions** following the text *Television Markets, Licensing and Syndication*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**. Study them closely and pinpoint them in the text.
2. Use an **English** language dictionary to check the meanings (in context) of the other words in the list.
3. Do the exercises to improve your language skills.

Television Markets, Licensing and Syndication

Television was initially thought to threaten the very survival of movies. The mesmerizing influence of the tube and its nearly ubiquitous presence indeed contributed to the reduction of annual theater admissions from the all-time peak of about 4 billion in 1946 to about 1 billion in the early 1960s. Yet television eventually became the film industry's first major ancillary market and, in the process, probably its savior. It was a long time before the value of the television market was fully understood by moviemakers.

Studios today engage in three distinct television-related activities: licensing of features to networks; syndication of features, series, and other programs to local stations; and production of made-for-television movies, series, and programs. The television market itself, however, breaks down into four primary segments – pay per view, premium cable, network and local station syndication - with Internet streaming, that is, digital service provider syndication, emerging as a fifth segment. Many small firms are also active in these areas. But easy this business is not. In comparison with the situation in feature films, the full earnings potential of a program or series is normally quite limited and the uncertainty of sale or of eventual price in aftermarkets is high.

Feature-film licensing

The peak demand for network feature-film licenses occurred in the late 1970s, when pay cable was still in its infancy and when the American Broadcasting Company, flush with ratings victories and cash, had the wherewithal to bid aggressively for rights to exhibit recent theatrical hits. Many of the major licenses at the time permitted up to five runs for fees that, with escalator clauses based on box-office performance, frequently were in the neighborhood of \$20 million.

Bidding fervor cooled, however, when it became apparent that pay cable was siphoning off the potential for high network ratings with early showings of uncut movies without interruptions for commercials. The ratings of all but the biggest box-office hits also diminished relative to those of made-for-television movies. But, in spite of this, films making their first network appearance in the early 1980s could command an average of perhaps \$5 million for two runs. That price reflected expected ratings for the film, the number of weekly hours the networks allotted to feature-movie programming, and the cost of producing comparable programming in terms of running time and content.

Out of any television-license fees, residual payments to participants have to be made, and other distribution costs (including high-priced legal talent and, on a rainy day, taxi fare up New York's Sixth Avenue) must be deducted. A feature film licensed to network television might thus generate for the studio-distributor a profit margin in the range of 40% to 65%, as distributors use various allocation formulas with the rationale that ratings of the most successful pictures on television, in both domestic and foreign markets, receive no more than three times the rating of the least successful pictures.

Funding made-fors and series

Production of original programming for network television is generally in the form of made-for-television movies (“made-fors”) or regularly scheduled series and miniseries such as *War and Remembrance* or *Roots*. Acceptance by a network is usually accompanied by a funding commitment to produce 13 episodes initially and by an option contract for additional episodes (usually 9 to 11 more) if the program attracts relatively large audiences. For each episode, the network may pay one-third upon commencement of filming or taping, another third upon completion, and the last third upon delivery and clearance (by network censors and others). The percentages at the various steps of a deal occasionally vary, however, and there may be an additional payment of 10% or so on a rerun of an episode (even though, since the late 1990s, the ratings performance of reruns, and thus their economic value, has fallen sharply).

Producers do not generally profit immediately or directly from series or made-fors, as network funding via license fees (normally for two runs) does not typically cover all out-of-pocket cash expenditures incurred by the program producer. In fact, on average, such production costs may be only 80% to 85% recouped from the network license fee. The remainder is to be covered by revenues generated through licensing in foreign markets eventually.

Network option clauses are another reason why producers or performers might not immediately profit from a successful series introduction. Option clauses for series usually allow the network to order programs for four or more (six is now not unusual) additional broadcast seasons, with episode fees increasing at least 3% to 5% and more likely 7% to 8% each year.

Nevertheless, with a network contract in hand, a studio or, more likely, an independent producer can obtain additional financial support by borrowing from a bank, another lending institution, or investor groups. Cash can also be obtained by selling a program’s anticipated syndication rights in advance to distributors.

As of the early 2000s, a prime-time one-hour network show (52-page script) required, on average, up to eight days to shoot (several more to edit) and around \$2.0 million to produce, although less popular shows with lower-paid performers might be made for perhaps 70% to 80% of that amount (and half-hour sitcoms for \$1.6 million).

Syndication agreements

Should a series last three seasons on a network (now increasingly unlikely as audiences continue to shift viewing habits to Internet-based viewing platforms), it begins to have significant value for the syndication (used-film) market: Local television stations and cable systems can then obtain enough episodes to “strip” the program into scheduled daily runs over a period of at least several months.

A typical broadcast syndication agreement will provide that, out of the gross revenues collected, the syndication company will first deduct syndication fees, then deduct out-of-pocket expenses (including costs for shipping, advertising, and prints), and then recoup advances made to producers. Fees for syndication services (i.e., distribution fees) as a proportion of gross income are generally 15% to 20% for net stripping sales, 30% to 35% for domestic syndication, and 40% to 50% for foreign syndication.

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◆◆ DEFINITIONS ◆◆◆

- ◆ **licensing (1)** granting official authorizations to show motion pictures
- ◆ **syndication** process whereby previously exhibited or recorded material is reused by or licensed to a group of buyers such as independent television and radio stations
- ◆ **theater** the building in which motion pictures are screened for public viewing; *movie theater, movie house, cinema*
- ◆ **peak** the highest figure reached during a given time span
- ◆ **ancillary market** a geographical or technological area of demand for a film product which is supplemental to theatrical distribution such as home video, TV network, Pay per View, pay cable, video on demand, online streaming, airlines or others
- ◆ **studios** companies that make their own movies and TV shows and have established facilities which they rent to other production companies, producers, writers and directors; *film studios*
- ◆ **features** full-length motion pictures, usually about 90 to 120 minutes long, on one particular topic; *feature films*
- ◆ **networks** corporations or groups of companies that disseminate television programs throughout an area; *television networks*
- ◆ **primary segments** groups of customers with similar likes and dislikes who offer a business the best chance to sell; *primary market segments*
- ◆ **pay-per-view** a cable service that makes available to a subscriber an individual movie, sporting event, or concert upon payment of a fee for that single event
- ◆ **premium cable** subscription-based television services provided by wire (cable) as opposed to airwave broadcast; *pay cable*
- ◆ **Internet streaming** listening to music or watching video in real time, instead of downloading a file to your computer and watching it later
- ◆ **earnings** gross margin of a company minus its operating expenses; *net income, net profit*
- ◆ **aftermarkets** customers other than those to whom a product was originally offered; *secondary markets*
- ◆ **American Broadcasting Company (ABC)** a major American commercial television network that is owned by the Disney Company and headquartered in New York City
- ◆ **ratings** percentage of total potential audience who choose a particular TV station or channel over another for a specified length of time; *TV ratings*
- ◆ **bid for** to negotiate the screening rights on behalf of an exhibitor for a motion picture to begin on a specified date in a given market
- ◆ **runs** the number of showings for which a film is booked
- ◆ **escalator clauses** provisions in a contract allowing for an adjustment in the agreement price under certain conditions
- ◆ **box office performance** the receipts earned from movie theater ticket sales; *box-office gross, box-office receipts, box-office revenue*
- ◆ **commercials** advertising messages aired on television
- ◆ **running time** the duration or length of a film
- ◆ **license fees** rates charged for the right to exhibit or broadcast a motion picture, series or miniseries
- ◆ **residual payments** additional compensation paid to actors of a motion picture or television program for use in other formats beyond that covered by initial compensation; *residuals*
- ◆ **legal talent** highly skilled attorneys or lawyers

- ◆ **network television** a group of connected TV stations that air programming from the same unified source
- ◆ **studio-distributor** one of the seven largest producers and distributors of motion pictures, known as 'the Majors' (20th Century Fox, NBC Universal, The Walt Disney Company, Paramount Pictures, Sony, Warner Brothers, and Lionsgate)
- ◆ **profit margin** net profit from operations divided by net sales and expressed as a percentage; *margin*
- ◆ **distributors** companies or individuals that have exclusive responsibility for releasing films to the public for theater or home viewing; *film distributors*
- ◆ **option contract** extension of a mutually binding agreement beyond an initial period which depends on the fulfilment of certain requirements
- ◆ **taping** the recording of images on video tape
- ◆ **clearance** the granting of permission by a network to broadcast a program on television
- ◆ **censors** network officers in charge of clearing a program for broadcast
- ◆ **deal** a business transaction involving the signing of a contract
- ◆ **rerun** the rebroadcasting of a program
- ◆ **producers** persons responsible for managing all aspects of movie making from start to finish, including budgeting, securing distribution, liaising with the director, cinematographer, production designer, actors and crew
- ◆ **cash expenditures** sums of money paid out by individuals to settle their bills
- ◆ **revenues** the total amount of money received by a business in a specified period before any deductions are made for costs, raw materials or taxation; *gross revenues, gross receipts*
- ◆ **option clauses** particular points in an option contract which, if invalidated, do not affect the remainder of the contract
- ◆ **broadcast seasons** periods of time in the year during which a TV station or network airs a particular film, series or program
- ◆ **investor groups** a number of individuals working together, with the shared goal of investing in a project that will yield profit
- ◆ **prime time** a defined block of time, traditionally from 8:00 p.m. until 11:00 p.m. in the United States, when television audience viewership peaks
- ◆ **shoot** to film scenes using a movie camera or a video camera
- ◆ **edit** to select and join together shots to create a finished film
- ◆ **Internet-based viewing platforms** electronic systems which are fitted with screens and designed to connect directly to the Web and display content such as YouTube video, weather reports, streaming movies or television shows
- ◆ **strip** to air on multiple consecutive days television programs that were originally broadcast weekly on a network
- ◆ **shipping** the carrying of goods by road, rail, sea and air
- ◆ **advertising** making a product or service known to the public in order to sell it
- ◆ **prints** copies made from the master of original light images (negatives) captured on film; *positive images*
- ◆ **gross income** the amount by which sales revenue exceeds production costs

◇◇ EXERCISES ◇◇◇

◇ EXERCISE 1

Comprehension

True / False Circle the correct choice and justify your answer

- | | |
|--|-------|
| 1. Television never really contributed much to the film industry. | T / F |
| 2. The earnings potential of licensing movies to television networks is greater than that of licensing made-fors and series. | T / F |
| 3. The American Broadcasting Company was instrumental in getting movies onto television screens. | T / F |
| 4. Feature films screened on network television were systematically interrupted by commercials. | T / F |
| 5. Licence fees for movies shown on network television for the first time in the 1980s were not particularly high. | T / F |
| 6. Producers put up all the money to fund made-for-television movies. | T / F |
| 7. Series or made-fors rely on licensing to both domestic and foreign markets. | T / F |
| 8. It is unusual for an independent producer to resort to advance sale of a program's anticipated syndication rights. | T / F |
| 9. Internet-based viewing platforms are increasingly taking over from network viewing. | T / F |
| 10. Gross income from foreign syndication is far greater than that derived from domestic syndication and net stripping sales combined. | T / F |

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above **to select the appropriate term** to fit each sentence

- The role of a distribution company is to get the finished movie into the and out in DVD format.
- Some deals require that count all of a film's video revenue toward its recoupment instead of the typical 20%.
- pay record amounts for top films, as illustrated by NBC, which paid MCA \$50 million for pre-cable rights (four runs) of *Jurassic Park*.
- Christmas day NBA coverage on ABC and ESPN saw a surge Monday, averaging a 3.9 household rating across four games — up 39% from the average for Christmas 2016's five-game schedule, according to Nielsen metered-market numbers quoted in *Variety.com*.
- is increasingly replacing relatively bulky and inconvenient DVD box sets.
- The accounting for one of Warner Brothers largest box office hits, *Batman*, revealed that star actor Jack Nicholson, who played *The Joker*, negotiated to receive 15% of the gross, with that ultimately brought his total percentage of the gross close to 20%.
- In 1996, ABC acquired the rights to two runs (after pay-per-view and pay cable) of *Mission: Impossible* for \$18 million to \$22 million, depending on
- A producer can sell the rights to any number of based on their experience, country and expertise.
- In the UK, are generally broken down for ease of handling into smaller reels, each lasting around 18-20 minutes when run through a projector at 24 frames per second.
- In 1956, MGM earned of about \$250,000 for a network showing of *Gone with the Wind*.

(B) Circle the verb in column **(B)** that matches the meaning of the verb in column **(A)** as used in the text

(A)	(B)
1. shift	replace / displace / dispatch
2. exhibit	expose / distribute / screen
3. order	command / arrange / book
4. threaten	intimidate / endanger / augur
5. breaks down	splits / disintegrates / merges
6. engage in	commit to / occupy / carry out
7. command	earn / demand / cost
8. occurred	happened / arose / took effect
9. allotted	assigned / distributed / granted
10. cooled	plunged / subsided / dipped
11. incurred	paid / acquired / borne
12. scheduled	slated / designated / arranged
13. recouped	deducted / retrieved / recuperated
14. provide (that)	state / consider / maintain
15. siphoning off	draw off / divert / undermine

◇ EXERCISE 3

Grammar

Conditionals

Match these clauses and then **join** them to make conditional sentences using *if*, choosing the more suitable position for the *if* clause in each case

(A)	(B)
1. Film stock should be stored at proper temperatures and humidity	a. the full payment earmarked in the production budget will not be made
2. When the making of a picture is completed on time	b. other family members might be abducted
3. The producers choose to shoot on film rather than digital video	c. future box-office takings look low
4. Should a filmmaker fail to complete a film project on time	d. as much as half the premium paid to insurers may be refunded
5. A film in the early stages of production is unlikely to be completed	e. film stock will last for at least 400 years
6. The billionaire grandfather in the movie “ <i>All the Money in the World</i> ” refuses to pay a ransom for the release of his kidnapped grandson	f. the making of a movie will cost more
7. When a picture is successful	g. pay-television license fees will often benchmark at \$10 million

(A)	(B)
8. A distributor enhances the prospects of a picture by editing it to local audience tastes	h. substantial revenues will accrue from advertising and syndication sales
9. When a show airs on a popular network such as Disney's ABC	i. the producer will require less time to allow for re-licensing or re-release
10. When a film generates more than \$75 million in domestic box-office receipts	j. licensing fees will generally take into account the cost of re-editing

◇ EXERCISE 4

*Assignment***Case Study**

Choose any one of the seven 'Majors' or an independent film producer and **describe** the specifics of how it funds its operations.

Report back to the class in a 15-minute oral presentation.

PART 3

LAW

IN THIS PART YOU WILL READ ABOUT

- Two major legal systems
- Legal principles and binding precedent
- The UK Supreme Court's constitutional role
- Rights and liabilities of companies and shareholders
- Tax avoidance, tax evasion and money laundering
- Cartels, anti-competitive agreements and state aid
- Cross-border disputes and arbitration rules
- The differences between employment law in the US and the UK
- Permanent and interim injunctions, public interest and expectations of privacy
- Artistic works and copyright infringement

YOU WILL LEARN SOME BASIC TERMS CONCERNING

- Common law and civil law traditions
- Case law and judicial precedent
- Constitutions and fundamental rights
- Legal personality
- Offshore businesses
- Competition and consumer welfare
- International dispute resolution
- Fair dismissal, unfair dismissal and employment 'at will'
- Press freedom and privacy rights
- Intellectual property rights

CHAPTER 21

COMMON LAW AND CIVIL LAW

◇ Useful words and concepts

common law

civil law

Middle Ages (the)

within

formerly

uncodified

comprehensive

legal rules

statutes

rely on

scattered

precedent

judicial decisions

cases

over time

court records

case law

yearbooks

law reports

determined

shaping

adversarial

contest

training

sentence

verdict

codified

updated

legal codes

procedure

punishment

offense

substantive law

prosecution

hearing

procedural law

criminal act

penal law

penalty

brings charges

formal

framework

set

legislators

legal scholars

draft

Roman law

commissioned

canon law

scholarship

compiled into

integral to

store

legal principles

held out

Crown (the)

writs

remedy

wrong

achieve

equity

Court of Chancery (the)

Lord Chancellor (the)

natural law

just

outcome

likewise

warrants

subpoenas

customary law

check

claimed

prior to

purchase

Instructions For Study

1. Turn to the **definitions** following the text *Common Law and Civil Law*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to test your language skills.

Common Law and Civil Law

Most nations today follow one of two major legal traditions: common law or civil law. The common law tradition emerged in England during the Middle Ages and was applied within British colonies across continents. The civil law tradition developed in continental Europe at the same time and was applied in the colonies of European imperial powers such as Spain and Portugal¹. Civil law was also adopted in the nineteenth and twentieth centuries by countries that formerly possessed distinctive legal traditions, such as Russia and Japan.

Common law is generally uncodified. This means that there is no comprehensive compilation of legal rules and statutes. While common law does rely on some scattered statutes, it is largely based on precedent, meaning the judicial decisions that have already been made in similar cases. These precedents are maintained over time through court records as well as historically documented in collections of case law known as yearbooks and law reports. The precedents to be applied in the decision of each new case are determined by the presiding judge. As a result, judges have an enormous role in shaping American and English law. Common law functions as an adversarial system, a contest between two opposing parties before a judge who moderates. A jury of ordinary people without legal training decides on the facts of the case. The judge then determines the appropriate sentence based on the jury's verdict.

Civil law, in contrast, is codified. Countries with civil law systems have comprehensive, continuously updated legal codes that specify all matters capable of being brought before a court, the applicable procedure, and the appropriate punishment for each offense. Such codes distinguish between different categories of law: substantive law establishes which acts are subject to criminal prosecution or a civil hearing, procedural law establishes how to determine whether a particular action constitutes a criminal act, and penal law establishes the appropriate penalty. In a civil law system, the judge's role is to establish the facts of the case and to apply the provisions of the applicable code. Though the judge often brings the formal charges, investigates the matter, and decides on the case, he or she works within a framework established by a comprehensive, codified set of laws. The judge's decision is consequently less crucial in shaping civil law than the decisions of legislators and legal scholars who draft and interpret the codes.

The term civil law derives from the Latin *ius civile*, the law applicable to all Roman *cives* or citizens. Its origins and model are to be found in the monumental compilation of Roman law commissioned by the Emperor Justinian in the sixth century CE². Medieval scholars of Catholic Church law, or canon law, were also influenced by Roman law scholarship as they compiled existing religious legal sources into their own comprehensive system of law and governance for the Church.

-
1. Within a common law system the term "civil law" is used to refer to the law that does not deal with criminal matters but with the enforcement of rights and obligations.
 2. CE is an abbreviation for Common Era which begins in year 1 in the Gregorian calendar.

By the late Middle Ages, these two laws, civil and canon, were taught at most universities and formed the basis of a shared body of legal thought common to most of Europe. The birth and evolution of the medieval civil law tradition based on Roman law was thus integral to European legal development. It offered a store of legal principles and rules invested with the authority of ancient Rome and centuries of distinguished jurists, and it held out the possibility of a comprehensive legal code providing substantive and procedural law for all situations.

English common law emerged from the changing and centralizing powers of the king during the Middle Ages. After the Norman Conquest in 1066, medieval kings began to consolidate power and establish new institutions of royal authority and justice. New forms of legal action established by the Crown functioned through a system of writs, or royal orders, each of which provided a specific remedy for a specific wrong. The system of writs became so highly formalized that the laws the courts could apply based on this system often were too rigid to adequately achieve justice. In these cases, a further appeal to justice would have to be made directly to the king. This difficulty gave birth to a new kind of court, the court of equity, also known as the Court of Chancery because it was the court of the Lord Chancellor. Courts of equity were authorized to apply principles of equity based on many sources (such as Roman law and natural law) to achieve a just outcome. Courts of law and courts of equity thus functioned separately until the writ system was abolished in the mid-nineteenth century. Even today, however, some U.S. states maintain separate courts of equity. Likewise, certain kinds of writs, such as warrants and subpoenas, still exist in the modern practice of common law.

In the Middle Ages, common law in England coexisted, as civil law did in other countries, with other systems of law. Church courts applied canon law, urban and rural courts applied local customary law, Chancery and maritime courts applied Roman law. Only in the seventeenth century did common law triumph over the other laws, when Parliament established a permanent check on the power of the English king and claimed the right to define the common law and declare other laws subsidiary to it. This evolution of a national legal culture in England was contemporaneous with the development of national legal systems in civil law countries during the early modern period.

The American legal system remains firmly within the common law tradition brought to the North American colonies from England. Yet traces of the civil law tradition may be found within state legal traditions across the United States. Most prominent is the example of Louisiana, where state law is based on civil law as a result of Louisiana's history as a French and Spanish territory prior to its purchase from France in 1803.

Excerpt from: Dr Julianne L. Gilland, *The Common Law and Civil Law Traditions*, 2010,
Robbins Collection, University of California, Berkeley, School of Law.
<https://www.law.berkeley.edu/wp-content/uploads/2017/11/CommonLawCivilLawTraditions.pdf>

◇◇ DEFINITIONS ◇◇◇

- ◆ **common law** the body of law based on judicial decisions and custom, as distinct from statute law
- ◆ **civil law** system of law having its origin in Roman law and especially that set out in the Justinian code, as opposed to common law or canon law
- ◆ **uncodified** not compiled into or set out in a code
- ◆ **legal rules** principles that have been laid down by judges, as opposed to those established by a legislative body
- ◆ **statutes** formal, written enactments of a legislative authority
- ◆ **precedent** reported decision of a higher court which is recognised as a rule of law binding on judges seeking to judge similar matters in future cases; *judicial precedent*
- ◆ **judicial decisions** determinations by a court of competent jurisdiction on matters submitted to it; *judgments*
- ◆ **cases** suits or actions in law or in equity
- ◆ **court records** official, written reports of court proceedings
- ◆ **case law** the body of law established by the decisions taken by higher courts, and especially appellate courts (courts of appeal)
- ◆ **yearbooks** reports of court hearings collected into separate books each year from around 1290 during the reign of Edward I until 1535, during the reign of Henry VIII
- ◆ **law reports** written accounts of court cases often collated into yearbooks
- ◆ **adversarial system** system of justice in which the prosecution (or the plaintiff) and the defence oppose each other, in contrast to the inquisitorial system of justice used in a civil law jurisdiction
- ◆ **sentence** judgment giving the punishment to be inflicted upon a person convicted of a crime
- ◆ **verdict** decision reached by a jury on the question submitted to it by the judge
- ◆ **codified** compiled into or set out in a code
- ◆ **legal codes** expressions of a comprehensive system of law as it applies in a given judicial area
- ◆ **procedure** rules and principles to be adhered to by the courts and other authorities
- ◆ **punishment** sanction inflicted on an offender through judicial procedure
- ◆ **offense** infraction of law, breach of a moral or social code
- ◆ **substantive law** body of legal principles that creates and defines rights, duties and obligation and causes of action that can be enforced by law
- ◆ **prosecution** act or process of pursuing formal charges against an offender to final judgment
- ◆ **hearing** legal proceeding where an issue of law or fact is tried and evidence is presented to help determine that issue
- ◆ **procedural law** body of legal principles that prescribes the procedures and methods for enforcing rights and duties and for obtaining redress
- ◆ **criminal act** behaviour that is condemned by law as being unacceptable and deserving punishment
- ◆ **penal law** texts prescribing the sanction to be given to a person who violates the law; *criminal law*
- ◆ **penalty** punitive measure imposed on a wrongdoer for breaking the law
- ◆ **brings charges** initiates criminal action by accusing a person of breaking the law
- ◆ **legislators** elected officials sitting in an assembly or parliament whose role is to create new law
- ◆ **legal scholars** academics, historians and researchers writing on judicial matters and the law
- ◆ **Roman law** the civil law compiled by Emperor Justinian who ruled from 527 to 565

- ◆ **canon law** body of codified ecclesiastical law governing a church, here the Roman Catholic Church
- ◆ **legal principles** guidelines that have been laid down by judges
- ◆ **Crown (the)** the state in all its aspects as the legal embodiment of executive, legislative, and judicial governance in a monarchy
- ◆ **writs** written orders issued by a court, commanding the party to whom the writ is addressed to perform or cease to perform a specified act
- ◆ **remedy** a corrective measure taken by the court to right a wrong or to prevent a further wrong from being committed
- ◆ **wrong** an unjust, immoral or injurious act which invades another's legal rights; *tort*
- ◆ **equity** set of legal principles, based on a judicial evaluation of fairness, good faith and justice, that supplement rules of law where the application of the latter alone would lead to injustice
- ◆ **Court of Chancery (the)** a court first established by the Lord Chancellor, the keeper of the King's conscience, around 1345, which followed rules of equity (as opposed to rules of the common law) and which had jurisdiction over land law, trusts and the administration of estates
- ◆ **Lord Chancellor (the)** in the Middle Ages, a priest and Keeper of the Great Seal, the chief royal chaplain and an advisor in both spiritual and temporal matters to the king
- ◆ **natural law** the view that certain rights and values are universally known by virtue of human reason and human nature
- ◆ **warrants** written orders issued by a judicial officer or other authorized person commanding a law enforcement officer to perform an act incident to the administration of justice.
- ◆ **subpoenas** writs issued by a court that has authority to compel a witness to give testimony or to produce evidence under a penalty for failure to do so
- ◆ **customary law** a set of practices in a group or society that has never been codified but has been shared for such a long period of time that it is considered to be legally enforceable

◆◆ EXERCISES ◆◆◆

◆ EXERCISE 1

Comprehension

True/False Circle the correct choice and justify your answer

- | | |
|--|-------|
| 1. The roots of the civil law tradition can be traced back to medieval England. | T / F |
| 2. The first continental countries to introduce civil law were Spain and Portugal. | T / F |
| 3. Statutes are legal decisions taken by judges. | T / F |
| 4. The yearbooks set out which precedents should be applied in which cases. | T / F |
| 5. The role of a common law jury is to determine which law should be applied. | T / F |
| 6. The common law gives judges a greater decision-making role than the civil law does. | T / F |
| 7. The writ system always achieved justice. | T / F |
| 8. Natural law was a prominent feature of equity. | T / F |
| 9. Today common law and equity are frequently dispensed by the same court. | T / F |
| 10. Vestiges of civil law can be identified in the law of some American states. | T / F |

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate terms** to fit each sentence

1. In the early years of the common law, law-making was a matter for the judges and were few and far between.
2. The judge explained that he was bound by the doctrine of judicial to adopt the same legal reasoning in judging the case before him as had been used in earlier cases, given that the facts were so similar.
3. In common law jurisdictions the law is to be found in and statutes as opposed to legal codes.
4. Once the jury had returned their the judge sentenced the offender to life imprisonment.
5. The policeman warned the demonstrators that anyone breaking the law would face criminal
6. Those who violate traffic regulations are rarely sent to prison for a first
7. In a common law trial it is the judge's role to manage the and control the parties.
8. In the common law world it is not the judge who but a prosecuting authority such as the Crown Prosecution Service in England and Wales or the Attorney General in an American state.
9. A well-known maxim of equity is that "equity will not suffer a to be without a remedy".
10. The court issued to five witnesses, who were thereby compelled to give evidence even though they had initially shown reluctance to speak about the affair.

(B) Find **synonyms** in the text for the words in *italics*

1. Today all courts have the authority to judge in equity, but *in* the past equity was only administered by the Court of Chancery.
2. During the 14th century, judicial salaries were increased so that judges no longer needed to *depend on* other sources of income to survive.
3. *As the years went by* the Court of Chancery acquired a reputation of being as slow and expensive as the common law courts.
4. After taking several days to study the details of the affair, the judges *decided* that the law had been broken on more than one occasion.
5. Several judges suggested that Parliament should *write* new laws on the matter.
6. Given the high level of public dissatisfaction the government finally *ordered* an official enquiry into the affair.
7. The jury seemed reluctant to find the offender guilty, as they did not think that the law itself was *fair*.
8. Judges frequently took part in administrative affairs *before* the English civil war, but by the 17th century this practice had all but disappeared.
9. The information gathered by the legal scholars was *brought together in* a report that was submitted to Parliament
10. The *result* of the negotiations will determine what course will be taken.

◇ EXERCISE 3

*Grammar***Passive voice**

Use the *passive voice* to transform the following sentences

1. In medieval England, the Royal Courts dispensed justice in cases involving important national interests.
In medieval England, justice
2. Other courts, which often applied their own rules, resolved local disputes.
Local disputes
3. The decisions of the Royal Courts laid the foundations of the English legal system prior to the adoption of any statutes.
The foundations of the English legal system
4. Historians attribute the oldest book on the common law to a member of Henry II's government.
The oldest book on the common law
5. In the mid thirteenth century, a royal judge, Henry de Bracton wrote *On the Laws and Customs of England*.
On the Laws and Customs of England
6. In the United States, it is only Louisiana that retains an integrated civil law system.
In the United States an
7. In England, Jeremy Bentham, a vociferous critic of the common law, championed codification.
In England, codification
8. Statutes often restate common law rules.
Common law rules
9. The French civil code influenced the Japanese civil code.
The Japanese civil code
10. People often say that it is the great judges who have shaped the common law.
The common law is often

◇ EXERCISE 4

Assignment

Read the following comparison of a particular aspect of the UK and US legal systems.

In the UK, pursuant to the Judicature Acts of 1872-76, the Common Law courts merged with the Court of Chancery, allowing all judges to apply both law and principles of equity. Similarly, in the US, the Supreme Court and the federal circuit courts are invested with general equity powers and act either as courts of law or equity, depending on the affair they are judging. Some states however have decided to maintain the Courts of Law separate from the Courts of Equity. One such state is Delaware, which has a very active Court of Chancery.

Find out how the Delaware Court of Chancery operates, the matters over which it has jurisdiction, and why it enjoys a worldwide reputation. What advantages can you see in keeping equity separate from law?

Report back to the class in a 15-minute oral presentation.

CHAPTER 22

CASE LAW AND JUDICIAL PRECEDENT

◇ Useful words and concepts

case law

judicial precedent

legal principles

reported cases

consists of

law of negligence (the)

principles of law

sets

lawyer

strengths

common law

point of law

cases

topic

key

academics

practitioners

claimants

settle

to a greater or lesser extent

draw upon

piecemeal

parrots

under an implied contractual duty

ensure

layperson

dumb

stand

pet shop

customer

related

budgerigars

duty

standards of health

owed

good faith

sellers

goods

eventually

textbook

sum up

statement

vendor

mute

defective merchandise

reasoning

preceding

binding

courts

stare rationibus decidendis, stare decisis

bound

appeal

res judicata

adjudicated upon

matching

merely

embodies

propounding

lifeblood

Instructions For Study

1. Turn to the **definitions** following the text *Case Law and Judicial Precedent*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to test your language skills.

Case Law and Judicial Precedent

‘Case law’ is the term we use to describe the collection of all the legal principles emanating from all the reported cases on a given topic. The ‘case law’ on the law of negligence, for example, consists of thousands of individual cases, all building one on another, year after year, exploring different aspects of the law and seeing whether the principles of law apply or do not apply (or need changing) to different sets of facts. Indeed, it is often said that one of the strengths of English common law is that it is built upon the concrete examples of case law rather than hypothetical models.

The doctrine of judicial precedent is concerned with the importance of case law in our system. It is really the lawyer’s term for legal experience. We all tend to repeat things we have done before: law is essentially no different. If one case has decided a point of law then it is logical that that solution will be looked at in the future. The principles of English law are derived from observing the development of a line of particular cases on a particular topic. This is a key factor in English law. Because English lawyers are so avidly fixed on case law, principles do not develop unless claimants bring cases. Academics and practitioners may speculate on the development of legal principles, but it takes real-life cases to settle them. And the judges in each case, to a greater or lesser extent, draw upon the principles established in those earlier cases in reaching their decision.

As we noted above on the development of case law in negligence, this is a piecemeal, case-by-case progression. As an example of this: imagine that a case in 1920 decided that any person selling parrots was under an implied contractual duty to ensure that the parrot could talk. A layperson reading about this case might think it interesting, especially if he has just bought a dumb parrot. A lawyer, however, immediately starts to think of the ramifications of the case: what is the significance of the case? How does it stand with other cases? What level of court made the decision? Thus, to the lawyer, the case presents further questions:

Would this principle still apply if the pet shop owner had clearly told the customer that the parrot could not talk?

Does the same principle apply to related birds such as budgerigars?

Should the principle apply to other birds?

Wider still, is there a general principle to be found in the case, which might mean that a similar duty (say as to standards of health) might apply to other animals?

The particular case concerning parrots may consequently be seen as giving birth to a more general principle on the duties owed by pet shop owners to their customers, e.g. that they owed a duty always to deal in good faith. It is not beyond speculation that the same principle might one day be applied to sellers of other types of goods such as televisions or cars. Eventually a textbook writer will sum up all the case law in one general statement on the duties owed by vendors of goods. Looking back at the history of the cases, we might find that one case concerning a mute parrot is now applied to all cases on defective merchandise.

An important and distinctive element of English law is that the reasoning and decisions found in preceding cases are not simply considered with respect or as a good guide, but can be binding on later courts. This is known as the principle of *stare rationibus decidendis*, usually referred to as *stare decisis*. It translates simply as 'Let the decision stand'. What *stare decisis* means in practice is that when a court makes a decision in a case then any courts which are of equal or lower status to that court must follow that previous decision if the case before them is similar to that earlier case. So, once one court has decided a matter other inferior courts are bound to follow that decision.

The 'decision' of a case can mean a number of different things. At its simplest, the 'decision' is that X won and Y lost. Thus X and Y are (subject to any appeal) bound by that decision; this is referred to as *res judicata* (a matter which has been adjudicated upon). But when we use the word 'decision' in the context of legal analysis we are referring to something much wider. We are referring to the *whole* reasoning process that went into deciding that X won – we are referring to *why* X won.

Legal reasoning is not simply a process of matching one case against another; it is not merely a question of drawing analogies. There will always be differences in the facts of the two cases, if nothing else. As the notion of judicial precedent is founded on comparing cases a primary question is: how significant are the differences? Just because the facts of two cases are apparently similar does not mean they should be decided in the same way. The doctrine of judicial precedent is not simply a mechanical process of matching similarities and differences. It is not merely a science of comparisons for it embodies the art of interpretation; the art of propounding the legal principle to be derived from each case. It also involves the lifeblood of a lawyer: argument.

Excerpt from: James Holland, Julian Webb, *Learning Legal Rules*, Oxford University Press 2016.

◇◇ DEFINITIONS ◇◇◇

- ◆ **case law** the law as established by the decisions taken by higher courts, especially the appellate courts (courts of appeal)
- ◆ **judicial precedent** reported decisions of a higher court which are recognised as a rule of law binding on judges seeking to judge similar matters in future cases; *precedent*
- ◆ **legal principles** guidelines that have been laid down by judges
- ◆ **reported cases** records of judicial decisions on a point of law which sets a precedent
- ◆ **law of negligence (the)** the body of legal principles and statutes that determine when there has been a breach by the defendant of a legal duty to take care resulting in damage to the claimant
- ◆ **principles of law** authoritative declarations by judges
- ◆ **lawyer** a person whose job is to give legal advice, write formal agreements and represent people in court
- ◆ **common law** the body of law based on judicial decisions and custom, as distinct from statute law
- ◆ **point of law** question of how the law is to be interpreted
- ◆ **cases** suits or actions in law or in equity
- ◆ **claimants** parties bringing an action at law
- ◆ **settle** to resolve a dispute
- ◆ **under an implied contractual duty** bound by an obligation that is not set out expressly in the contract but which arises because of the circumstances in which the contract is entered into
- ◆ **duty** obligation upon a person to act, or to refrain from acting in a particular way
- ◆ **good faith** honestly, openly and without seeking to dissimulate information
- ◆ **binding** legally enforceable, imposing or commanding adherence to a commitment
- ◆ **courts** places where justice is administered
- ◆ ***stare rationibus decidendis*** from the Latin *stare decisis et non quieta movere*, meaning that courts should abide by precedents and not disturb settled matters; *stare decisis*
- ◆ **bound** under an obligation; *compelled*
- ◆ **appeal** a request brought before a higher court of law to reconsider a decision made by a lower court
- ◆ ***res judicata*** from the Latin *res judicata pro veritate accipitur*, meaning a thing adjudicated is received as the truth and is accepted as such by the parties, in other words, the matter has been settled

◇◇ EXERCISES ◇◇◇

◇ EXERCISE 1

Comprehension

True / False Circle the correct choice and justify your answer

- | | |
|---|-------|
| 1. English law relies heavily on hypothetical models. | T / F |
| 2. A case needs to be brought before a court for a legal principle to emerge. | T / F |
| 3. Judges invariably get guidance from academic writings when judging cases. | T / F |

- | | |
|--|-------|
| 4. The law of negligence developed rapidly and in a very harmonious fashion. | T / F |
| 5. A contract for the sale of parrots in the UK must state clearly whether the bird can talk or not. | T / F |
| 6. The law today states that pet shop owners must deal in good faith. | T / F |
| 7. The law on defective merchandise can be traced back to a case involving the sale of a parrot in the early 20 th century. | T / F |
| 8. A decision taken by a lower-level court will never be recognised as a judicial precedent. | T / F |
| 9. Cases with similar facts will always be judged in the same way. | T / F |
| 10. Interpretation is a key element of judicial reasoning | T / F |

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate terms** to fit each sentence

- The court dismissed the application for an appeal on the ground that it was based on a question of fact and not on a
- Decisions taken by the Supreme Court are on all lower courts.
- Most countries, including the United States and Australia, recognise that the parties to a contract should act in
- Those who contract under English law however are not usually considered to be to perform their obligations in good faith.
- Very few are won without strong evidence to back up the claim.
- When starting legal action, are required to set out all relevant facts on the claim form.
- The lawyers encouraged the parties to their dispute out of court.
- The case was initially heard in the High Court, but since it involved a matter of general public importance it went on directly to the Supreme Court.
- The doctrine of is based on the principle of *stare decisis* – once a point of law has been decided in one case, it must be applied in all other cases.
- Where judges sitting in lower become aware of a legal principle set by a higher court, they will be bound to apply that law.

(B) **Find** words or expressions in the text with equivalent terms to those in *italics* below

- The *strong points* and weaknesses of the defence's argument were clear to all who attended the trial.
- There is little doubt that the new law will affect everyone *to some degree or another*.
- At the end of the trial, after the lawyers had given their closing arguments, the judge turned to the jury to *summarise* the evidence and the facts.
- The law places a greater duty on a professional to act with care than on the amateur or the *unskilled practitioner*.
- The judge made some general remarks followed by a more formal *declaration* about the respective duties of the opposing parties.
- The law today protects those who have been sold *faulty goods*.
- During the early years the common law developed in a *haphazard and irregular* fashion.
- Good faith is understood today as open dealing and not *simply* an obligation for parties not to deceive each other.

9. The common law today *is made up of* law, equity and statutes.
10. A careful reading of reported cases is of *crucial* significance to understanding the way the common law functions.

◇ EXERCISE 3

*Grammar***Modals**

Complete the following sentences using *will, may, might, could* and *must* with the correct form of the verb in brackets to express probability in the present, past or future tenses

1. It (be) very difficult for Paul to have taken that case – everyone knows how much he dislikes personal injury claims, especially those involving children and car accidents.
2. They (be) very badly injured in the accident – it's a good thing that his negligent driving did not cause more harm than it in fact did.
3. Given the judge's expression during the closing arguments, quite honestly those present (guess) what his decision would be.
4. I've just heard that your sister has been made a judge. You (be) very proud of her!
5. It is very likely that the case (be) heard in the central criminal court later this year.
6. The witness testified that the defendant (not/be) at work that afternoon as he claimed, as the office had been closed throughout the weekend.
7. Some of the students (be) interested in finding out more about the common law, but clearly others were not.
8. The lawyer argued that in the light of the similarity of the factual elements, the same legal principle (apply) to the case he was presenting to the court.
9. Given the complexity of the case it (end up) being heard by the High Court, but it's more likely that it will be dealt with locally.
10. The police informed the witness that they (need) to interview him a second time before the end of the week.

◇ EXERCISE 4

Assignment

A leading UK case on the modern law of negligence is *Donoghue v Stevenson*, a Scottish case heard on appeal by the UK House of Lords in 1932.

Research this case and sum up the facts in about 400 words. **Identify** the legal principle that the House of Lords judgment established.

CHAPTER 23

THE UK SUPREME COURT

◇ Useful words and concepts

UK Supreme Court (the)

United Kingdom (the)

constitution

governing principle

sovereign power

branches of government

solely

Parliament

Queen-in-Parliament (the)

constitutional court

truly

guardian

ordinary (law) courts

power of abstract review

referred to

rule on

power of concrete review

jurisdiction (2)

common law

allow for

legislation

ruling

provide for

judicial review

Bill of Rights of 1791 (the)

strike down

federal legislation

legislation of the States

v

incident

Law Lords

Lord Chancellor

Speaker

House of Lords (the)

arrangement

devolved legislatures

rule upon

ultra vires

perform

executive

fundamental rights

encroachment

officials

scope

free speech

European Convention on Human Rights

ratify

Human Rights Act 1998 (the)

set out

relying on

statement

entail

qualified

primary legislation

secondary legislation

read compatibly with

given effect

neat

reconciling

breach

Instructions For Study

1. Turn to the **definitions** following the text *The UK Supreme Court*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to test your language skills.

The UK Supreme Court

The fact that we in the United Kingdom do not have a written Constitution does not mean that we do not have a constitution. We clearly do. But it is different from most other constitutions in that its governing principle is that sovereign power is not distributed between the three branches of government but resides solely in Parliament (or strictly, the Queen-in-Parliament). Parliament can make or unmake any law.

All countries with a written constitution have a supreme or constitutional court that can truly be called the guardian of the constitution. Countries with legal systems based on the continental European model, such as most of Europe, Latin America and parts of the Far East, have constitutional courts that are separate from the ordinary law courts. They all have a power of abstract review – a new or proposed law is referred to them so that they can rule on whether or not it is constitutional. Some also have a power of concrete review - the same question can come before them in a concrete case involving real facts and real people. Some have exclusive jurisdiction, in that they are the only court that can answer such questions. But some share it with the ordinary law courts.

In the common law world, which includes most of the English-speaking world as well as Israel, the Indian sub-continent, Malaysia, Singapore and Hong Kong, such constitutional questions are decided by the ordinary courts, usually in the context of concrete cases, although there are some constitutions, for example in Canada and Ireland, which allow for abstract questions on the validity of proposed legislation to be referred to the Supreme Court for a ruling. Most of the modern constitutions on this model provide expressly for judicial review of legislation.

The Constitution of the United States of America, adopted in 1787, together with the Bill of Rights of 1791, did not expressly provide for the Supreme Court of the United States to strike down federal legislation as unconstitutional, as opposed to the legislation of the States. But the Supreme Court very soon decided, in *Marbury v Madison*, that this was a necessary incident of a Constitution that limited the powers of the federal legislature.

In the United Kingdom, of course, things are different. Until 2009, the top court was a committee of the Upper House of Parliament. The Law Lords combined the roles of judge and Parliamentarian. Their leader, the Lord Chancellor, combined the roles of Speaker of the House of Lords, senior member of the Government, and Head of the Judiciary. In the early years of this century, it was recognised that, however well this arrangement had worked in practice, it could not be justified in principle.

There are three ways in which the Supreme Court Justices have definitely become the guardians of the United Kingdom Constitution. First and most obvious is that we rule upon the validity of the laws passed by the devolved legislatures in Scotland, Wales and Northern Ireland. The United Kingdom has not become a truly federal state, because England does not have her own Parliament. But the other parts of the United Kingdom now do have their own Parliaments with powers to pass their own laws. If they pass laws that are *ultra vires* we can declare that they are 'not law'.

The next constitutional role that we clearly perform is keeping the Government and executive within the powers that Parliament has given them.

A third important – some would say the most important – constitutional role of the courts is protecting the fundamental rights of individuals against encroachment by the State. The courts were able to protect those rights against encroachment by government officials. But the courts had little scope to protect them against encroachment by Parliament. If Parliament placed restrictions, for example on the right of free speech, there was nothing the courts could do, even if those restrictions were not compatible with the European Convention on Human Rights, which the United Kingdom had been the first to ratify in 1950.

But the Human Rights Act 1998 has made three important changes. First, it has made the rights set out in the Convention into rights in UK law – no longer are we relying solely on the common law and what we can make of it, we have a clear statement in the Convention of what the rights entail and the circumstances in which they may be qualified or taken away.

Second, the Act requires that, so far as it is possible to do so, both primary and secondary legislation should be read and given effect compatibly with the Convention rights. We are no longer searching only for the intention of the legislature but for a way of reading its words that is compatible with the Convention rights if at all possible. Thus, for example, the words 'living with each other as husband and wife' could be read as including a same-sex couple whose relationship was as marriage-like as an unmarried opposite sex couple's relationship.

Third, while the Act does not allow us to strike down provisions in Acts of the UK Parliament which cannot be read compatibly with the Convention rights, we can declare that they are incompatible. This is a neat way of reconciling the protection of fundamental rights with the sovereignty of the UK Parliament. The law remains unchanged but Government and Parliament are given a clear message that we think it to be in breach of the UK's international obligations under the Convention.

Excerpt from: *The Supreme Court: Guardian of the Constitution?* Sultan Azlan Shah Lecture 2016, Kuala Lumpur
Lady Hale, Deputy President of the Supreme Court¹ 9 November 2016

1. Lady Hale was sworn in as President of the Supreme Court on 2 October 2017

◆◆ DEFINITIONS ◆◆◆

- ◆ **UK Supreme Court (the)** the final court of appeal for criminal cases in England, Wales and Northern Ireland and the final court of appeal in the UK for civil cases (that is, cases not involving criminal law), hearing cases of great public or constitutional importance
- ◆ **United Kingdom (the)** the sovereign state made up of four countries – England, Wales, Scotland and Northern Ireland
- ◆ **constitution** the set of principles and rules by which a country is organised, which in the UK relates to statutes, conventions, judicial decisions and treaties
- ◆ **sovereign power** the authority to create and repeal law, which in UK constitutional law reflects the doctrine that the monarch in Parliament is competent to make or unmake any law whatsoever and cannot be challenged in any court
- ◆ **branches of government** the executive, legislative and judicial authorities which in accordance with the doctrine of the separation of powers check and balance one another
- ◆ **Parliament** the supreme legislative body in the United Kingdom, composed of the House of Commons (lower chamber), the House of Lords (upper chamber) and the Queen-in-Parliament
- ◆ **Queen-in-Parliament (the)** (or the King-in-Parliament) the Crown in its legislative role
- ◆ **constitutional court** a court whose principal duty is to ensure that new and existing legislation is compatible with the country's constitution
- ◆ **guardian** a person or institution lawfully invested with the power to take care of and protect the property and rights of others; *custodian*
- ◆ **ordinary (law) courts** courts not dealing with constitutional matters
- ◆ **power of abstract review** the authority to verify the validity of the law without this being needed to be prompted by a specific legal case
- ◆ **power of concrete review** the authority to verify the validity of law by way of a specific case
- ◆ **jurisdiction (2)** the authority of a court, tribunal or other official organisation to make legal decisions and pass judgments
- ◆ **common law** the body of law based on judicial decisions and custom, as distinct from statute law
- ◆ **legislation** law enacted by a legislative body such as Parliament
- ◆ **ruling** a decision, a judgment or an authoritative decision taken by a judge
- ◆ **judicial review** a court's authority to examine legislative, executive and administrative decisions to determine whether they are compatible with the constitution of the country or not
- ◆ **Bill of Rights of 1791 (the)** the first ten amendments to the United States Constitution
- ◆ **strike down** declare a law unenforceable
- ◆ **federal legislation** the body of law deriving from a country's federal government, here the law derived from the US Constitution
- ◆ **legislation of the States** law enacted by the legislative authorities in the individual states
- ◆ **v** standing for *versus*, meaning in opposition to; in the UK, to be read as “and” in a civil law case and “against” in a criminal case and in the US simply as *versus*
- ◆ **incident** something that depends upon, appertains to, or follows something else.
- ◆ **Law Lords** the familiar name for the *Lords of Appeal in Ordinary* – the judges appointed under the Appellate Jurisdiction Act 1876 to exercise judicial functions in the House of Lords and who were replaced in 2009 in the newly created Supreme Court of the United Kingdom by the *Justices of the Supreme Court of the United Kingdom* pursuant to the Constitutional Reform Act 2005

- ◆ **Lord Chancellor** a role taken since 2006 by the Lord Speaker, who has been a Cabinet Minister since the creation of the Ministry of Justice in 2007, and who also carries the title of Secretary of State for Justice
- ◆ **Speaker** president of the House of Lords and successor to the Lord Chancellor
- ◆ **House of Lords (the)** the upper chamber of the British Parliament, which until 2009 was also the seat of the highest appellate court for the United Kingdom
- ◆ **devolved legislatures** Scotland, Wales and Northern Ireland each have their own executive and a unicameral legislature
- ◆ **rule upon** to give a decision or judgment about
- ◆ **ultra vires** the Latin expression for “beyond the powers” which is used to describe actions taken by governments or corporations that exceed the scope of power given to them by law or by charter, and which, with regard to government bodies, often means acting unconstitutionally
- ◆ **executive** the branch of government empowered and required to administer law
- ◆ **fundamental rights** legal protections that all human beings can claim, irrespective of the country a person lives in; *universal protections, inalienable protections*
- ◆ **European Convention on Human Rights (ECHR) (the)** formally known as the *Convention for the Protection of Human Rights and Fundamental Freedoms*, an international treaty drafted in 1950 by the Council of Europe which entered into force in 1953
- ◆ **ratify** confirm by expressing consent
- ◆ **Human Rights Act 1998 (the)** the UK Act of Parliament that incorporates the ECHR into national legislation
- ◆ **primary legislation** statutes enacted by the legislature; *Acts of Parliament*
- ◆ **secondary legislation** law created by the executive branch of government under the powers delegated to it from the legislature; *delegated legislation; subordinate legislation*
- ◆ **read compatibly with** to interpret the texts in such a way as they do not conflict or contradict one other
- ◆ **breach** violation of the terms of an agreement or infringement of an obligation

◆◆ EXERCISES ◆◆◆

◇ EXERCISE 1

Comprehension

Circle the alternative (a), (b) or (c) that most fully and correctly completes the statements below

1. The UK Parliament is free to change the law as it wishes because
 - (a) there is no written constitution
 - (b) the Queen is no longer involved in Parliamentary activity
 - (c) it is sovereign
2. Typically, a constitutional court may
 - (a) strike down legislation deemed to be unconstitutional
 - (b) recommend the enactment of new law
 - (c) advise the executive about the political expediency of proposed legislation

3. In Canada and Ireland, the constitutionality of proposed legislation is vetted by
 - (a) the Constitutional Court
 - (b) the High Court
 - (c) the Supreme Court
4. The US Constitution made provision for the Supreme Court to
 - (a) override state law
 - (b) strike down federal law
 - (c) expressly undertake judicial review of both state and federal law
5. The UK Supreme Court
 - (a) checks the legality of legislation coming from the devolved legislatures
 - (b) rules upon the validity of law coming from the UK Parliament
 - (c) strikes down European law that is incompatible with British law
6. In the UK, the executive derives its authority and powers from
 - (a) the general principle of the separation of powers
 - (b) the Queen, as the head of the state
 - (c) Parliament
7. The ordinary law courts of England and Wales have always been able to protect the fundamental rights of individuals when they risk being encroached upon by
 - (a) a government official
 - (b) Parliament
 - (c) foreign states
8. The Human Rights Act
 - (a) resulted in a code of human rights protections
 - (b) gave individuals clearly defined rights that were unstated in the common law
 - (c) guaranteed the supremacy of Parliament in human rights disputes between citizens and the state
9. Today the courts are required to interpret legislation
 - (a) strictly in conformity with case law
 - (b) in an equitable way, judging each case on its merits
 - (c) in a way that does not contradict the European Convention on Human Rights
10. If the Supreme Court becomes aware that an Act of the UK Parliament is in contradiction to a right stated in the Human Rights Act, it can
 - (a) refuse to enforce the offending law
 - (b) make a declaration of incompatibility
 - (c) modify the offending law

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate terms** to fit each sentence

1. The judges rejected the appeal in a handed down late last year.
2. The US Supreme Court thus has the power to any law that it discovers is unconstitutional.
3. The new UK Supreme Court has to make sure that the uphold the law.
4. In the US system, power is divided between three, each of which operates checks and balances on the others.
5. People can question the legality of government action by way of

6. One major advantage of is that it allows the Government to make changes to a law without needing to push through a completely new Act of Parliament.
7. The court was asked to the legality of the proposed legislation.
8. The European Convention on Human Rights is considered by many to be the of individual liberties.
9. The of the new court did not extend to hearing constitutional matters.
10. Invitations to sign and relevant conventions are sent to all member states.

(B) Fill in the **blanks** with the words from the list below

areas / arrangement / arrangements / branches / cases / civilian / entertained / hear / let / overriding / performs / practical / preclude / hearing / raise / reverse / select / sensitive / sovereignty / unlike

Parliamentary Sovereignty

The Law Lords heard appeals in all (1) of law, and the Supreme Court (2) precisely the same function. However, the UK Supreme Court, like the Law Lords before them, hears a very limited number of (3): only those which (4) points of law of general public importance should be (5). Therefore, we manage with twelve Justices, even though normally only five of us will (6) any case. In that connection, we are very different from civil law countries which have separate Supreme Courts and Constitutional Courts. Indeed, many European countries have more than one Supreme Court; and many European countries have a very large Supreme Court – Italy and France each have a Supreme Court, or Court of Cassation, with over a hundred judges - because, (7) common law supreme courts, they cannot (8) the cases which come to them. The Supreme Court, as the final appeal court, (9) only cases of general public importance, must try to be particularly (10) to the delicate balance between the (11) of the state in a constitutional (12) which is of a remarkably ill-defined and flexible nature. Although one of the clear principles in our system is the doctrine of parliamentary (13), that does not (14) the necessity for a degree of judicial law-making. Indeed, the notion that judges have only recently taken it on themselves to make law is a fallacy. Where the law has been developed by a judge through a decision which is thought to be inappropriate, Parliament can always (15) the decision by legislation. Of course, the very fact that we have parliamentary sovereignty and we do not have a formal, (16) constitution could be said to prevent the UK Supreme Court being a normal common law Supreme Court, (17) alone a (18) Constitutional Court. However, the United Kingdom’s unusually ill-defined and informal constitutional (19) permit a flexible and (20) response to problems.

◇ EXERCISE 3

Grammar

Relative pronouns

Complete the following sentences using *who, whose, whom, what, which* and *that*

1. Constitutional law is a subject about he knows very little.
2. The person from he got his information about the powers of the UK Supreme Court proved to be mistaken.

3. This is the constitutional change we've all been waiting for.
4. Is this the book on devolved legislatures you were interested in reading?
5. In the common law world, it's easy to name the country economy is growing the fastest!
6. Many countries have constitutional courts are separate from the ordinary law courts
7. The European Convention on Human Rights, was drafted in 1950, was initially not incorporated into domestic law.
8. the Speaker said was that both primary and secondary legislation needed to be read compatibly with the Convention rights.
9. The Law Lords, combined the roles of judge and Parliamentarian, have been replaced by Supreme Court Justices in the new UK Supreme Court.
10. In the past, all the judges could do was to notify Parliament about the incompatibility between the proposed new law and Convention rights.

◇ EXERCISE 4

Assignment

Research and write a short composition, of about 400 words, addressing the following subjects

1. Why does Supreme Court Justice Lady Hale, the author of the lecture, claim that at the beginning of the 21st century, the role of Lord Chancellor could no longer be justified in principle?
2. Compare the relative duties and powers of the French Conseil Constitutionnel and the Cour de Cassation, the UK Supreme Court and the US Supreme Court.

CHAPTER 24

CORPORATE PERSONALITY

◇ Useful words and concepts

corporate personality

statutory

legal entity

distinct from

shareholders

v

Co.

Ltd

AC

rights

liabilities

House of Lords (the)

held

wholly

owned

controlled

item

legal interest

equitable interest

therein

entitled to

share

profits

assets

wound up

company law

insolvency law

limited companies

disregarding

a range of

be personally liable

agent

joint actor

vested in

controller

belong beneficially

arrangements

nominee

trustee

for statutory purposes

equitable remedies

injunction

specific performance

compel

ownership

relevant

wrongdoing

authorities

statements of principle

obiter

sham

begs too many questions

protean

concealment

evasion

deter

legal right

involvement

defeat a right

frustrate (the enforcement of a right)

enforcement

Instructions For Study

1. Turn to the **definitions** following the text *Corporate Personality*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to test your language skills.

Corporate Personality

Subject to very limited exceptions, most of which are statutory, a company is a legal entity distinct from its shareholders. It has rights and liabilities of its own which are distinct from those of its shareholders. Its property is its own, and not that of its shareholders. In *Salomon v A Salomon and Co Ltd* [1897] AC 22, the House of Lords held that these principles applied as much to a company that was wholly owned and controlled by one man as to any other company. In *Macaura v Northern Assurance Co Ltd* [1925] AC 619, Lord Buckmaster, said: “no shareholder has any right to any item of property owned by the company, for he has no legal or equitable interest therein. He is entitled to a share in the profits while the company continues to carry on business and a share in the distribution of the surplus assets when the company is wound up.” The separate personality and property of a company is sometimes described as a fiction, and in a sense it is. But the fiction is the whole foundation of English company and insolvency law. As Robert Goff LJ once observed, in this domain “we are concerned not with economics but with law. The distinction between the two is, in law, fundamental”. He could justly have added that it is not just legally but economically fundamental, since limited companies have been the principal unit of commercial life for more than a century. Their separate personality and property are the basis on which third parties are entitled to deal with them and commonly do deal with them.

“Piercing the corporate veil” is an expression rather indiscriminately used to describe a number of different things. Properly speaking, it means disregarding the separate personality of the company. There is a range of situations in which the law attributes the acts or property of a company to those who control it, without disregarding its separate legal personality. The controller may be personally liable, generally in addition to the company, for something that he has done as its agent or as a joint actor. Property legally vested in a company may belong beneficially to the controller, if the arrangements in relation to the property are such as to make the company its controller’s nominee or trustee for that purpose. For specific statutory purposes, a company’s legal responsibility may be engaged by the acts or business of an associated company. Equitable remedies, such as an injunction or specific performance may be available to compel the controller whose personal legal responsibility is engaged to exercise his control in a particular way. But when we speak of piercing the corporate veil, we are not (or should not be) speaking of any of these situations, but only of those cases which are true exceptions to the rule in *Salomon v A Salomon and Co Ltd* [1897] AC 22, i.e. where a person who owns and controls a company is said in certain circumstances to be identified with it in law by virtue of that ownership and control.

In my view, the principle that the court may be justified in piercing the corporate veil if a company’s separate legal personality is being abused for the purpose of some relevant wrongdoing is well established in the authorities. It is true that most of the statements of principle in the authorities are *obiter*, because the corporate veil was not pierced. It is also true that most cases in which the corporate veil was pierced could have been decided on other grounds. But the consensus that there are circumstances in which the court may pierce the corporate veil is impressive.

The difficulty is to identify what is a relevant wrongdoing. References to a “facade” or “sham” beg too many questions to provide a satisfactory answer. It seems to me that two distinct principles lie behind these protean terms, and that much confusion has been caused by failing to distinguish between them. They can conveniently be called the concealment principle and the evasion principle. The concealment principle is legally banal and does not involve piercing the corporate veil at all. It involves the interposition of a company or perhaps several companies so as to conceal the identity of the real actors will not deter the courts from identifying them, assuming that their identity is legally relevant. In these cases the court is not disregarding the “facade”, but only looking behind it to discover the facts which the corporate structure is concealing. The evasion principle is different. It is that the court may disregard the corporate veil if there is a legal right against the person in control of it which exists independently of the company’s involvement, and a company is interposed so that the separate legal personality of the company will defeat the right or frustrate its enforcement. Many cases will fall into both categories, but in some circumstances the difference between them may be critical.

Excerpt from Lord Sumption’s remarks (edited) in *Prest (Appellant) v Petrodel Resources Limited and others (Respondents)* [2013] UKSC 34.

◆◆ DEFINITIONS ◆◆◆

- ◆ **corporate personality** the status of a business organisation that has complied with law for its recognition as a legal entity and that has an independent legal existence from that of its officers, directors and shareholders
- ◆ **statutory** set out in, or legally required by a statute
- ◆ **legal entity** an association, company, partnership, trust or individual that has legal standing in the eyes of the law; *legal person, legal body*
- ◆ **shareholders** owners of stock in a company; *stockholders, equity holders*
- ◆ **v** standing for *versus*, meaning in opposition to, read as “and” in a civil law case and “against” in a criminal case
- ◆ **Co.** abbreviation of the word company, used to designate an entity as a company but carrying no specific legal meaning and referring to no particular legal structure
- ◆ **Ltd** abbreviation standing for limited, placed after the name of a company to show that the company is a limited liability structure with independent corporate identity
- ◆ **AC** abbreviation standing for Appeal Court, meaning that the case was heard before the Appeal Court of England and Wales
- ◆ **rights** acts that a person or a legal person is legally entitled to do
- ◆ **liabilities** obligations, including debts, that arise during the course of a company’s business operations
- ◆ **House of Lords (the)** the upper chamber of the British Parliament, which until 2009 was also the seat of the highest appellate court for the United Kingdom
- ◆ **held** decided or ruled by a court during a trial or similar legal proceedings
- ◆ **owned** possessed, belonging to an individual or a legal person who has an exclusive right to enjoy, occupy and use the said property
- ◆ **controlled** having responsibility for managing the accounting and the financial activities of a company
- ◆ **legal interest** when the owner of property has the right to take legal action against parties that attempt to infringe their ownership rights
- ◆ **equitable interest** when someone who does not hold legal title to property has a right to reap benefit from that property, to use and to enjoy it
- ◆ **assets** property available for the payment of debts in the case of corporate insolvency or personal bankruptcy
- ◆ **wound up** when the assets of a business are sold and the proceeds used to pay off its creditors; *liquidated*
- ◆ **company law** the law relating to the formation, registration, governance and dissolution of a business
- ◆ **insolvency law** the law governing the liquidation of assets which occurs when the value of all accumulated debts exceed the value of all available assets
- ◆ **limited companies** business enterprises for which, if declared bankrupt, the owners have the legal obligation to pay the debts only up to the amount of capital that has been invested in them; *private limited companies* or *public limited companies*
- ◆ **be personally liable** to have legal responsibility as an individual for the actions of the company and be individually accountable at law
- ◆ **agent** a person who is legally authorised to act for another, the agent’s principal
- ◆ **joint actor** persons who act together, in concert or in collaboration
- ◆ **controller** a person who is responsible for accounting and financial activities in the company; *financial controller*

- ◆ **belong beneficially** entitled to receive the profits or the proceeds of property without being the legal owner of that property.
- ◆ **nominee** a person who has been requested or named to act for another (for example, an agent or a trustee)
- ◆ **trustee** an individual (or a corporation) named by another individual who sets aside money or property to be used for the benefit of another person
- ◆ **equitable remedies** non-monetary relief granted at the discretion of the court
- ◆ **injunction** a court order usually commanding a person to refrain from breaching his or her contractual duty
- ◆ **specific performance** a court order used in contract law compelling a breaching party to a contract to specifically perform what he or she was supposed to perform.
- ◆ **wrongdoing** illegal or dishonest behaviour
- ◆ **authorities** previous decisions by an Appeal Court which provide legal guidance to a court, or previously decided cases that constitute binding precedents
- ◆ **obiter** a remark in a judgment that is “said in passing” and does not have binding authority, from the Latin *obiter dictum/dicta*
- ◆ **concealment** the condition of being hidden, or the action of preventing something from being discovered; *hiding*
- ◆ **evasion** illegal behaviour undertaken in order to escape or avoid one’s legal obligations
- ◆ **legal right** an entitlement or privilege conferred upon a person through law
- ◆ **defeat a right** prevent a right from being achieved or enforced
- ◆ **frustrate (the enforcement of a right)** render impossible compliance with an entitlement or privilege
- ◆ **enforcement** the act of compelling observance or compliance with a rule, law or obligation

◆◆ EXERCISES ◆◆◆

◆ EXERCISE 1

Comprehension

True / False Circle the correct choice and justify your answer

- | | |
|--|-------|
| 1. A company with a single shareholder forfeits the right to be considered a legal person. | T / F |
| 2. A company’s shareholders own the company’s property. | T / F |
| 3. Both company law and insolvency law are founded on the principle that a validly incorporated company has its own legal personality. | T / F |
| 4. The expression “piercing the corporate veil” is frequently used in a careless manner, and often seems to refer to different factual situations. | T / F |
| 5. It is impossible to hold a controller of a company legally liable for a company’s acts and behaviour. | T / F |
| 6. Under certain circumstances a controller may be the beneficial owner of property legally owned by the company. | T / F |
| 7. Almost all the statements of principle about piercing the corporate veil to be found in past judgments have binding authority. | T / F |
| 8. Few judges would contest the circumstances under which a court will have the right to pierce the corporate veil. | T / F |

- | | |
|--|-------|
| 9. The notions of “facade” and “sham” are particularly useful for a judge who is seeking to identify a wrongdoing. | T / F |
| 10. According to Lord Sumption, concealment amounts to evasion. | T / F |

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate** terms to fit each sentence

1. Corporate personality functions as a shield and, providing the law is not broken, will protect from personal liability.
2. A number of problems arose when it came to the implementation and of the new legislation.
3. The creditor of an insolvent company that is not voluntarily can ask the court to appoint a liquidator.
4. The court has the power to grant an to restrain a party from taking action likely to cause harm.
5. There are a number of provisions that enable a court to pierce the corporate veil.
6. The beneficiary of a trust has an in property but he or she will not be the legal owner of that property.
7. The law of agency governs the relationship between a principal and his or her
8. Once a limited company has been formed, only the of the company can be used to clear its debts.
9. Both specific performance and injunctions are examples of
10. It is not easy to distinguish between evasion and concealment by looking at the alone.

(B) **Replace** the word or expression in *italics* with a word found in the text.

1. The director claimed he could not *oblige* his colleague to hand over the document.
2. The judge was not *entirely* satisfied that the parties were telling the truth.
3. It was not clear what degree of *participation* the parties had in the affair.
4. The judge warned that *not heeding* the law could have dire consequences.
5. It took the enquirers a long time to *find* conclusive evidence.
6. The judge did not seem to think that the argument was *pertinent*, and asked the lawyer to move on.
7. The principle of the rule of law lies at the *foundation* of the English legal system.
8. English law has developed strong case law in favour of considering legal entities as *completely separate* from those who own and control them.
9. When the company was wound up, only a very small *part* of the total assets was paid to the shareholders.
10. The lawyers came up with a *variety of* possible explanations for the money that has disappeared.

◇ EXERCISE 3

*Grammar***Word formation**

Complete the following sentences with the **correct form** of the word in brackets

1. There was (*compel*) evidence to suggest that the company was a sham.
2. Even a successful and (*profit*) business can be affected by cash flow problems.
3. It will be necessary to provide a certificate to obtain (*entitle*) to the accounts.
4. The copies were so well made that they were virtually (*distinguish*) from the originals.
5. Ultimately it was (*relevant*) whether the benefits were received by the parent company or by the subsidiary.
6. The threat of impending legal action did not seem to act as a (*deter*) to the director, who continued to bend the rules to his own personal advantage.
7. The common law power to appoint trustees will be used if a trustee is removed due to (*satisfactory*) conduct.
8. The founder of a company is often known as its (*own*), even if strictly speaking the term applies to the shareholders of that company.
9. Investor confidence may well be further dampened by the (*impress*) results that were released this morning.
10. There was little doubt that the CEOs were only too aware of the (*legal*) of their actions and indeed they barely sought to justify themselves to the shareholders.

◇ EXERCISE 4

Assignment

Write a short summary of the case mentioned by Lord Sumption, *Salomon v A Salomon and Co Ltd* [1897] AC 22.

As a conclusion to your summary **state** why this case is so important.

The full judgment is to be found on: <http://www.bailii.org/uk/cases/UKHL/1896/1.html>

CHAPTER 25

SHELL COMPANIES AND TAX HAVENS

◇ Useful words and concepts

shell companies

tax havens

unprecedented

leak

classified

exposed

shuffled around

barely

oversight

dubbed

law firm

handles

offshore

tax avoidance

wealthy

flourish

web

loopholes

rates

jurisdictions (1)

tax breaks

financial benefits

regulation

income tax

sales tax

fees

franchise tax

filed

registry

records

disclose

tax agencies

money-laundering

lawyer

holders

court

offenses

fined

regulations

dodge

Prohibition

lax

incorporation laws

tax-free

confidentiality laws

cartel

proceeds

white-collar crime

fraud

tax evasion

ranks

concerns

Financial Action Task Force

roster

widespread

Instructions For Study

1. Turn to the **definitions** following the text *Shell Companies and Tax Havens*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to test your language skills.

Shell Companies and Tax Havens

News reports based on an unprecedented leak of classified documents have, in very little time, dramatically exposed a secret world of the global elite, where large sums of money are quietly, anonymously, and apparently legally hidden and shuffled around with barely any governmental oversight. The 11.5 million documents, dubbed the Panama Papers, come from Mossack Fonseca, a Panama-based law firm that handles offshore shell companies. The news organizations with access to the documents, which are not public, have reported only a small portion of their contents, and promise more to come. The actions described in the reports are not necessarily illegal, but they do raise questions about the kinds of legal tax-avoidance services available to the world's wealthy – and draw attention to Panama and other countries that allow such practices to flourish.

Panama is known as a tax haven, the name given to countries where foreign individuals and companies can take advantage of a web of financial loopholes and are taxed at very low, or even non-existent, rates. In tax havens, international businesses operate outside of their owners' jurisdictions – offshore – and so enjoy tax breaks and other financial benefits of the country in which they are operating. In Panama, that means less regulation and more privacy. Panama doesn't ask offshore companies to pay income tax on international transactions, sales tax, and other fees – only an annual franchise tax of \$300 to the government.

Offshore companies can operate anonymously. Their owners' names and personal information are not filed with any public government registry, and remain secret. Many companies are managed by law firms, like Mossack Fonseca. They're not required to keep records of any transactions. If the records exist, companies are not required to disclose them to foreign governments and tax agencies. "When it comes to money-laundering, we offer full service: rinse, wash, and dry," said Miguel Antonio Bernal, a Panamanian lawyer and political analyst. "You can go to any law firm in the city, from the smallest to the biggest, and open up a shell company with no questions asked." Panama also promises privacy to holders of offshore bank accounts: It's a crime for Panamanian banks to disclose any information about those clients unless they're ordered to do so by a court, usually in cases that involve serious offenses, like terrorism or drug trafficking. In any other case, if banks talk, they can be fined up to \$100,000.

Panama is one of the oldest tax havens in the Americas. In 1919, Panama, then just a 16-year-old nation, began registering foreign ships under its flag to help Standard Oil dodge American taxes and regulations, according to a report by Armando José García Pires, a researcher at Norway's Institute for Research in Economics and Business Administration. U.S. ships sailing under Panama's flag could serve alcohol to their passengers during Prohibition. (These days, foreign ship operators can register online and pay no income taxes.) In 1927, Wall Street bankers helped Panama introduce lax incorporation laws, which allowed foreign individuals to open tax-free companies with few questions asked, explains Pires. The boom in offshore business came in the 1970s, when the country passed strict confidentiality laws.

Panama quickly became known as a haven for criminal activity under its military dictator Manuel Noriega, who worked with Colombia's Medellín cartel in the 1980s. The Panama Papers have further exposed how thousands of offshore companies have been used to help hide the proceeds of white-collar crime such as fraud, political corruption and tax evasion.

Today, Panama has more than 350,000 international business companies registered, the third-largest number in the world after Hong Kong and the British Virgin Islands, according to the Financial Secrecy Index, which ranks jurisdictions based on their offshore financial activities. In recent years, Panama has made legal and regulatory changes to address money-laundering concerns. In February 2016, the intergovernmental Financial Action Task Force removed Panama from its so-called "grey list," a roster of jurisdictions that the intergovernmental agency considers to have inadequate anti money-laundering provisions. The agency said Panama had made "significant progress" in combating laundering, but law experts say the practice remains widespread. After the Panama Papers reports, and the promise of more revelations, the public may learn just how widespread.

Excerpt from: Marina Koren, *What makes Panama a Tax Haven?* [The Atlantic](#), April 5th, 2016.

◆◆ DEFINITIONS ◆◆◆

- ◆ **shell companies** corporations without active business operations or significant assets, often formed as a front for an illegal business
- ◆ **tax havens** countries with little or no taxation offering foreign individuals or corporations residency so that they can avoid paying tax in the country in which they reside
- ◆ **classified** available only to a restricted number of persons who have obtained the necessary authorisation
- ◆ **law firm** a business entity formed by a group of lawyers to engage in the practice of law
- ◆ **offshore** located in a jurisdiction other than that where an individual, company or business activity is usually domiciled
- ◆ **tax avoidance** the legal use of tax laws to pay the least tax possible
- ◆ **loopholes** technicalities in regulations or legislation that make it possible to avoid certain consequences or to circumvent a rule without breaking the law
- ◆ **jurisdictions (1)** territories to which the authority of a court, tribunal or other official organisation to make legal decisions and pass judgments applies
- ◆ **tax breaks** savings on a tax payer's tax burden by way of tax credits, exemptions or deductions
- ◆ **financial benefits** help in the form of monetary advantages, such as lower taxation and reduced running costs
- ◆ **regulation** a process established by law setting out principles or rules so as to control and manage a system
- ◆ **income tax** a tax on the earnings of individuals and trusts, including salaries and wages, profits from a trade carried on either alone or in partnership, pensions, and returns on investment such as interest, dividends and rents
- ◆ **sales tax** a tax on the sale of goods and services, levied as a fixed percentage of the selling price
- ◆ **fees** payment for professional advice or special services
- ◆ **franchise tax** a government tax charged by some states to certain business organisations such as partnerships and corporations when they operate in that state
- ◆ **disclose** reveal or provide information about something that was previously concealed
- ◆ **tax agencies** organisations with official responsibility for collecting taxes
- ◆ **money-laundering** moving illegally acquired funds into legal bank accounts or investments
- ◆ **lawyer** a person whose job is to give legal advice, write formal agreements and represent people in court
- ◆ **court** a place where justice is administered
- ◆ **offenses** infractions of law, breaches of a moral or social code
- ◆ **fined** ordered to pay a sum of money to the state in punishment for illegal activity or behaviour
- ◆ **regulations** principles or rules used to control and manage a system
- ◆ **Prohibition** the period during which the Eighteenth Amendment of the US Constitution was in force (1920-1933) and when alcoholic beverages could not be legally manufactured, transported or sold in the United States
- ◆ **incorporation laws** rules governing how a business entity can acquire the status of an officially registered company
- ◆ **tax-free** exempt from any charge levied by an authority
- ◆ **confidentiality laws** regulations governing what information may be shared and what must be kept secret

- ◆ **cartel** an organization created from a formal agreement between a group of competing firms to regulate supply so as to manipulate prices with the objective of limiting or eliminating competition; *business cartel*
- ◆ **proceeds** money or other property received as the result of a sale or other transaction
- ◆ **white-collar crime** financially motivated, non-violent crime committed by businesses and government professionals
- ◆ **fraud** deceit, and intentional perversion of the truth
- ◆ **tax evasion** illegal avoidance of paying taxes by individuals, corporations and trusts
- ◆ **Financial Action Task Force** an inter-governmental body established in 1989, the goals of which are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.

◆◆ EXERCISES ◆◆◆

◇ EXERCISE 1

Comprehension

True / False Circle the correct choice and justify your answer

1. A large quantity of private, confidential information drawn from classified documents has never been made public before. T / F
2. The documents released by the news organisations have been subject to little government scrutiny. T / F
3. The news organisations that revealed these documents have denounced tax avoidance as illegal. T / F
4. Shell companies are sometimes required to pay money to the government of the jurisdiction in which they operate. T / F
5. The law firms that set up shell companies are under an obligation to declare all the transactions that these companies enter into. T / F
6. Setting up a shell company is time-consuming and requires a great deal of paperwork. T / F
7. Panamanian banks will readily supply information to the authorities if the latter suspect that the owner of the bank account is engaging in illegal activities. T / F
8. The number of offshore companies registered in Panama increased in the 1970s. T / F
9. Panama has recently tightened up its confidentiality laws, giving private investors greater protection than before. T / F
10. Today Panama is no longer considered to be a hub for money-laundering. T / F

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate terms** to fit each sentence

1. The recent leaks have revealed that many major corporations operate subsidiaries in
2. In an attempt to clean up the system, the government announced that all foreign nationals resident in the country will soon have to pay on their worldwide assets.

3. As part of their enquiry into money-laundering, police investigated two partners of the Panamanian that had set up the shell company.
4. One purpose of bank accounts is to make things easier for people who receive money in multiple currencies outside of their country of residence or domicile.
5. One political analyst highlights the fact that is present on every continent and typically involves transferring money through several countries to obscure its origins.
6. Bermuda is known as being a business-friendly country and proposes very favourable to those who wish to set up businesses.
7. Some people claim Delaware is a tax haven, and parts of its General Corporation Law have been copied in other
8. Organisations fighting reported a significant increase in the number of prosecutions leading to convictions last year.
9. The penalties for breach of confidence are heavy – a bank could be and its directors could be imprisoned.
10. The bank claimed it was bound by strict rules of secrecy and was therefore unable to the name of the holder of the account.

(B) Find synonyms in the text for the words in *italics*

1. The lawyers were working around the clock and got *hardly* any sleep during the time that the transaction took to complete.
2. A recent report *named* the country as one of the world's newest tax havens.
3. The law firm *manages* the international affairs of several high profile companies.
4. Tax havens are places where the *rich* can place their money so as to avoid paying a higher tax rate in the state in which they are resident.
5. In countries that have a policy of low taxation, it is clear that business will *thrive*.
6. The inspectors were surprised to discover that the firm had kept no regular *accounts* of its financial dealings.
7. The firm was accused of actively promoting the country as a tax haven and of having established shell companies there to *avoid* paying taxes.
8. The country has everything to offer: a highly educated workforce, a *lenient* regulatory regime and access to capital.
9. According to a recent investigation, the country is increasingly being promoted as a place to *conceal* wealth.
10. The firms operate in a legal environment in which there is *broad* respect for contracts and the rule of law.

◇ EXERCISE 3

Grammar

Tenses

Complete the following passage by correctly conjugating the verbs using the *present perfect* or the *simple past tense*

The Panama Papers Scandal

Anyone familiar with Panama's economic history will not be surprised by revelations of shell companies and hidden assets created by a law firm based in the small nation. Panama

(be) (1) a widely used tax haven for nearly a century, a practice that goes all the way back to U.S. industrialist John D. Rockefeller; since those early years these practices (evolve) (2) into a complex relationship between the country's banking, legal and financing sectors. The recent release of the Panama Papers (reveal) (3) exactly how over the years Panama (create) (4) conditions for foreigners to hide their assets through corporations there. In the 1970s, the country (move) (5) into the world of offshore accounts that added an extra layer of protection for foreigners trying to avoid prying eyes. In the 1980s, that (mean) (6) drug cartels funneling their profits through Panamanian-created corporations. In the 1990s, world leaders, wealthy investors and others (join) (7) in.

In recent years, the Panamanian government (try) (8) to crack down on criminal activity, and the disclosure of the Panama Papers will doubtless lead to further changes. The 11.5 million documents hacked from Panamanian law firm Mossack Fonseca (reveal) (9) how world leaders, their relatives and their associates keep business dealings and vast sums of money hidden in off-shore accounts. So far, the revelations (bring down) (10) the prime minister of Iceland, the CEO of an Austrian bank and prompted investigations around the world. Since the Panama Papers scandal, the government (pass) (11) more stringent laws to monitor and sanction banks and businesses engaged in illicit activity. In February, the Financial Action Task Force, an international body that sets standards for anti-money laundering rules, (remove) (12) Panama from its "blacklist" of countries that were not complying. Nonetheless, the International Monetary Fund, which (conduct) (13) an investigation into Panama's regulations, (find) (14) that gaping holes still exist. The country's anti-money laundering law, for example, is designed to regulate banks and other financial institutions. But the IMF found that the law (not cover) (15) lawyers, accountants, insurance companies, notaries, real estate agents or dealers of precious metals and stones.

◇ EXERCISE 4

Assignment

Research and report back to your class on either the strategies used and planned by the European Union to tackle corporate tax avoidance or on some of the tax saving techniques commonly used by multinational companies.

CHAPTER 26

COMPETITION LAW

◇ Useful words and concepts

competition law
competition
consumer welfare
behaviour
competitive markets
beneficial
concern
policy
market power
harm
output
depriving
landlord
tenant
competition issues
assessment
involved
cartelisation
predatory pricing
discrimination
mergers
rule-based
legal process
input
anti-competitive agreement

unlawful
redeeming
enhancement
cartel
fix prices
share
horizontal agreements
put out for competitive tender
rig bids
cover pricing
bidder
effectively
imprisonment
disqualified
company directorship
custodial sentence
fined
turnover
vertical agreements
supplier
retailers
resell
resale price maintenance
abusive behaviour
without regard to

competitors
less than cost
deter
competition authorities
abuse of dominant position
legislative measures
licensing rules
regulations
provisions
subsidies (1)
state aid
undertakings
scrutinise
removal
struggle
contention
striving
benefits
state planning
widespread
unleashed
underlying
outcomes

Instructions For Study

1. Turn to the **definitions** following the text *Competition Law*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to test your language skills.

Competition Law

As a general proposition competition law consists of rules that are intended to protect the process of competition in order to maximise consumer welfare. Competition law has grown at a phenomenal rate in recent years in response to the enormous changes in political thinking and economic behaviour that have taken place around the world. There are now more than 130 systems of competition law in the world, which reflects the growing belief that competitive markets are beneficial for consumer welfare.

A central concern of competition law and policy is that a firm or firms with market power are able, in various ways, to harm consumer welfare, for example by reducing output, raising prices, degrading the quality of products on the market, suppressing innovation and depriving consumers of choice. These concerns cannot be expressed in a codified table of rules capable of precise application in the way, for example, that laws on taxation or the relationship of landlord and tenant can. The analysis of competition issues invariably requires an assessment of market power, and such an assessment cannot be conducted without an understanding of the economic concepts involved. The same is true of the types of behaviour – for example cartelisation, predatory pricing, discrimination, mergers – with which competition law is concerned. These are not matters that can simply be analysed in a rule-based way. Competition law is about the economic analysis of markets within a legal process; each case will depend on its own circumstances but will often require both legal and economic input.

What issues is competition law concerned with in particular?

Anti-competitive agreements

These are agreements that have as their object or effect the restriction of competition. They are unlawful unless they have some redeeming virtue such as the enhancement of economic efficiency. An example would be a cartel agreement between competitors, for example to fix prices, to share markets or to restrict output – often referred to as horizontal agreements. Another example would be if a firm puts out for competitive tender and those who respond rig their bids by way of cover pricing – such bid rigging involves collusion between parties that should be in competition with each other, with the lowest bidder effectively facing no real competition at all. Such agreements are severely punished, and in some systems of law can even lead to the imprisonment of the individuals responsible for them. In the UK a company director may be disqualified from holding a company directorship for up to fifteen years or given a custodial sentence of up to five years; and a company may be fined up to ten per-cent of its annual worldwide turnover. Agreements between firms at different levels of the market – known as vertical agreements – may also be unlawful when they could be harmful to competition: an example would be where a supplier of goods instructs its retailers not to resell them at less than a certain price, a practice often referred to as resale price maintenance. As a general proposition, vertical agreements are much less likely to harm competition than horizontal ones.

Abusive behaviour

This concerns behaviour by a firm with substantial market power which enables it to behave independently on the market without regard to competitors. An example would be where a dominant firm reduces its prices to less than cost in order to drive a competitor out of the market or to deter a competitor from entering the market so that it can subsequently charge higher prices, a phenomenon known as predatory pricing. Note that it is not the fact that the market is dominated by a given firm that poses a problem; the competition authorities will only investigate the firm if there is an abuse of dominant position.

Mergers

While mergers can expand markets and bring benefits to the economy, some combinations may reduce competition. Combining the activities of different companies may allow the companies, for example, to develop new products more efficiently or to reduce production or distribution costs. Through their increased efficiency, the market becomes more competitive and consumers benefit from higher-quality goods at fairer prices. However, some mergers may reduce competition in a market, usually by creating or strengthening a dominant player. This is likely to harm consumers through higher prices, reduced choice or less innovation. Many systems of competition law enable a competition authority to investigate mergers between firms that could be harmful to the competitive process: clearly, if one competitor were to acquire its main competitor the possibility exists that the market will become less competitive and consumers may have to pay higher prices as a result.

Public restrictions on competition

The state is often responsible for restrictions and distortions of competition, for example as a result of legislative measures, regulations, licensing rules or the provision of subsidies. State aid is defined as an advantage in any form whatsoever conferred on a selective basis to undertakings by national public authorities. Therefore, subsidies granted to individuals or general measures open to all enterprises are not covered by this prohibition and do not constitute state aid (examples include general taxation measures or employment legislation). Some systems of competition law give a role to competition authorities to scrutinise 'public' restrictions of competition and to play a 'competition advocacy' role by commenting on, and even recommending the removal of, such restrictions.

Competition means a struggle or contention for superiority, and in the commercial world this means a striving for the custom and business of people in the market place. Many countries had the greatest suspicion of competitive markets and saw, instead, benefits in state planning and management of the economy. However enormous changes took place as the millennium approached, leading to widespread demonopolisation, liberalisation and privatisation. These phenomena, coupled with rapid technological changes and the opening up of international trade, unleashed unprecedentedly powerful economic forces. These changes impact upon individuals and societies in different ways, and sometimes the effects can be uncomfortable. Underlying them, however, is a growing consensus that, on the whole, markets deliver better outcomes than state planning; and central to the idea of a market is the process of competition.

Excerpt from: Richard Whish and David Bailey, *Competition Law*, Oxford University Press, 2015.

◇◇ DEFINITIONS ◇◇◇

- ◆ **competition law** rules that are intended to protect the process of competition in order to maximise consumer welfare
- ◆ **competition** rivalry between two or more business enterprises to secure a market share or to win new markets at each other's expense; *business rivalry*
- ◆ **consumer welfare** the benefits a buyer derives from the consumption of goods and services
- ◆ **competitive markets** markets in which a large numbers of producers compete with each other to satisfy the wants and needs of a large number of consumers
- ◆ **market power** the amount of influence that a firm has on an industry or the ability of a firm to profitably raise the market price of a good or service over marginal cost
- ◆ **output** the quantity of goods or services produced over a given time period by a firm or industry
- ◆ **competition issues** matters that are of interest to competition law enforcement agencies
- ◆ **cartelisation** the setting up of a business cartel by a group of competing firms
- ◆ **predatory pricing** a (deliberate) strategy, usually by a dominant firm, which consists in driving competitors out of the market by setting prices below production costs
- ◆ **discrimination** treating a business entity less favourably on account of any given criterion
- ◆ **mergers** combinations of the assets of two or more companies in order to form a new business entity; *amalgamations*
- ◆ **input** resources such as people, raw materials, energy, information, or finance that are put into a system to obtain a desired output
- ◆ **anti-competitive agreement** an agreement that violates competition law
- ◆ **cartel** an organization created from a formal agreement between a group of competing firms to regulate supply so as to manipulate prices with the objective of limiting or eliminating competition
- ◆ **fix prices** to collude with business competitors to set prices to buy or sell goods or services
- ◆ **horizontal agreements** agreements between competing businesses operating in the same economic sphere in which information on pricing, technology and products is shared
- ◆ **put out for competitive tender** to ask people to state formally how much they would charge for providing goods or services with the intention of retaining the best offer
- ◆ **rig bids** to collude with competitors in a tender process to artificially raise the price put forward to the potential customer
- ◆ **cover pricing** illegal activity engaged in by one or more bidders in a tender process to arrange for an artificially high price to be put forward
- ◆ **bidder** person or organisation that responds to an invitation to put forward an offer to buy an asset from a seller
- ◆ **disqualified** deprived of the right to exercise one's profession
- ◆ **company directorship** position of being the director of a company
- ◆ **custodial sentence** a period of imprisonment given as a judicial sanction
- ◆ **fined** ordered to pay a sum of money to the state in punishment for illegal activity or behaviour
- ◆ **turnover** the total amount of money received by a business in a specified period before any deductions are made for costs, raw materials or taxation; *sales revenue, sales turnover*
- ◆ **vertical agreements** arrangements entered into between two or more undertakings operating at different levels of the production or distribution chain, which relate to the conditions whereby the parties may purchase, sell or resell certain goods or services
- ◆ **supplier** individual or company offering goods or services; *provider*

- ◆ **retailers** firms at the end of the distribution chain, which generally buy a product from a wholesaler in order to sell it to the final consumer
- ◆ **resell** to sell a previously purchased product or service to an end user, or to sell the product or service a second time
- ◆ **resale price maintenance** an agreement between a supplier and a dealer with the object of directly or indirectly establishing a fixed or minimum price to be observed by the dealer when reselling a product or service to his customers
- ◆ **abusive behaviour** conduct that violates competition law
- ◆ **competitors** firms that are rivals in business; *business rivals*
- ◆ **less than cost** at a price that is inferior to the price paid to initially purchase or manufacture the product; *predatory pricing*
- ◆ **competition authorities** the regulatory bodies that are in charge of regulating and enforcing competition law
- ◆ **abuse of dominant position** taking advantage of a position of monopoly
- ◆ **legislative measures** decisions taken by a legislative authority
- ◆ **licensing rules** regulations governing what is authorised or not
- ◆ **regulations** principles or rules used to control and manage a system
- ◆ **subsidies (1)** government provision of finance and other resources to support a business activity
- ◆ **state aid** an advantage in any form whatsoever conferred on a selective basis to undertakings by national public authorities
- ◆ **undertakings** business enterprises and, in some jurisdictions, charities, state commercial bodies and trade associations
- ◆ **state planning** the activity of central government in countries where all the means of production and distribution are owned by the state

◆◆ EXERCISES ◆◆◆◆

◆ EXERCISE 1

Comprehension

Circle the alternative (a), (b) or (c) that most fully and correctly completes the statements below

1. The regulation of companies' anti-competitive conduct aims to
 - (a) promote the interests of consumers
 - (b) maximise company profits
 - (c) eliminate inefficient competitors
2. One explanation for the rapid growth of competition law over recent years is
 - (a) the commonly held belief that the market should be monitored and controlled
 - (b) the fact that so many changes have occurred in world business practices
 - (c) the conviction shared by countries worldwide that catering to customers' needs should not come in the way of business efficiency

3. Firms that occupy a dominant market position
 - (a) are guaranteed complete freedom by the competition authorities
 - (b) will probably improve the quality of the goods they offer to their clients
 - (c) might choose business practices that could harm consumer welfare
4. Competition law involves both
 - (a) economic and legal principles
 - (b) political and economic guidelines
 - (c) financial and political considerations
5. An agreement that restricts competition
 - (a) could, under certain circumstances, improve economic efficiency
 - (b) will necessarily be one that harms consumer welfare
 - (c) will be systematically punished by a custodial sentence
6. Cover pricing occurs when
 - (a) company directors from companies that should be in competition with each other collude to keep prices high
 - (b) supposedly competing companies fix their retail prices
 - (c) parties responding to a competitive tender collude with one another before providing quotes for the goods or services required
7. Resale price maintenance is an example of
 - (a) a vertical arrangement
 - (b) a horizontal arrangement
 - (c) an abuse of dominant position
8. Predatory pricing occurs when a supplier offers goods for sale at
 - (a) a price higher than the one the supplier has paid in order to maximize profits
 - (b) a price that undercuts the price charged by competitors with the aim of eliminating those competitors
 - (c) a competitively low price in order to stimulate competition
9. A market that becomes more concentrated as the result of a merger
 - (a) will inevitably lead to an abuse of a dominant position
 - (b) may produce better quality goods at a more competitive price
 - (c) will always be instructed by the competition authorities to modify its business activities so as to no longer dominate the market
10. Competition authorities often have the power to
 - (a) modify employment legislation
 - (b) demand changes to taxation policies
 - (c) investigate state subsidies given to particular sectors

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate terms** to fit each sentence

1. The director was horrified to discover that he risked paying a fine for the cartel that corresponded to 10% of his company's
2. On the whole seem to deliver better outcomes than monopolistic ones.
3. Cartels are detrimental to to the extent that they put upward pressure on prices by distorting competition.
4. A dominant business has a special responsibility not to squeeze out of the market.

5. The European Union has a state aid policy which makes it legal under certain circumstances to give to companies in difficulty.
6. The EU Commission's power to control subsidies by national governments is unique among the world's
7. Instead of competing with each other, the agencies formed a and agreed to boycott the new player.
8. It is generally agreed that low prices benefit consumers, but when companies sell at their primary motive may be to drive a competitor out of the market.
9. Partnerships between two or more competing businesses operating at the same level in the market are examples of and may be considered unlawful by the competition authorities.
10. The director was unaware that he was running the risk of being by agreeing to enter into a cartel with two of his competitors.

(B) Fill in the **blanks** with the words from the list below

binding / carve / distorts / fines / fix / losses / practices / penalty / purpose / share / sue / supply / trading / turnover / unfair

Anti-Competitive Agreements

The (1) of competition law is to promote healthy competition. It bans anti-competitive agreements between firms such as agreements to (2) prices or to (3) up markets, and it makes it illegal for businesses to abuse a dominant market position. Under competition law, mergers between businesses can also be prevented if they lead to reduced competition. In the UK it is the Competition Act 1998 that prohibits anti-competitive agreements between businesses. Any agreement that prevents, restricts or (4) competition is covered. An agreement could be formal (such as legally- (5) contracts) or informal (such as unwritten 'gentlemen's agreements'). The Act also prohibits abuse of a dominant market position. This mainly applies to businesses that have a large market, (6) usually 40 per cent or more. The type of (7) that could indicate abuse include charging (8) prices or imposing other unfair (9) conditions on customers, limiting production, or refusing to (10) an existing customer without an objective reason. Penalties for competition law abuses include (11) of up to 10 per cent of a company's annual worldwide (12). Also, directors can be disqualified, given an unlimited fine or even imprisoned. In addition to any (13) imposed, customers and competitors may be able to privately (14) companies that break the law for any (15) they have suffered due to the anti-competitive actions.

◇ EXERCISE 3

Grammar

Obligation and necessity

Complete the following sentences using *have to*, *must*, *need to*, *should*, *had better* and *supposed to* in the correct tense

1. The judge was not comfortable with the decision she was obliged to reach, but as she explained to the court, she (*apply*) the law.

2. The directors couldn't believe that so many customers had complained – after all, there (*be*) mechanisms in place to stop that sort of thing happening.
3. If a company manager discovers that a staff member has been discussing pricing strategies with competitors, he or she (*inform*) the competition authority immediately.
4. “We (*hurry up*), or they'll start the meeting without us,” said the manager.
5. To be in a position of dominance, a business (*have*) the ability to act independently of its customers, competitors and consumers.
6. In the jargon of competition law, tying means stipulating that a buyer who wishes to purchase one product (*purchase*) a second one.
7. In view of the severe consequences of non-compliance, it is recommended that businesses (*review*) regularly whether the company's practices and agreements comply with competition law.
8. The CEO said that they (*think*) very carefully about the proposed course of action, as he feared it could amount to a violation of competition law.
9. If markets become less competitive, consumers will end up (*pay*) higher prices.
10. Cartels are made up of companies that (*compete*) with each other.

◇ EXERCISE 4

Assignment

1. **Explore** the European Commission's webpages devoted to Competition Law and **select** a recent cartel case.
Sum up and comment on this case in a 15-minute oral presentation.
2. **Research** the European Union's policy concerning state aid (article 107 of the *Treaty on the Functioning of the European Union*).
Report back to the class on the principles underlying this policy and **analyse** a recent approval for state aid.

CHAPTER 27

INTERNATIONAL ARBITRATION

◇ Useful words and concepts

international arbitration

seemingly

unstoppable

big business

arbitral venue

beneficial

key

hub

founding partner

QC

thrive

dispute resolution

cross-border disputes

drafting

likely

jurisdiction (2)

global trade

business (1)

interference

body

in line with

arbitration rules

court rules

proceedings

substantive issues

suit

litigation

seat of arbitration

judiciary (the)

confidence

legal infrastructure

legal community

boast

lawyers

litigating parties

ubiquitous

English common law

benefits

lure

(be) down to

head

legal framework

pool

arbitrators

practitioners

prevailing

contract

pull factor

governing laws

survey

willing

venue

decade

taken for granted

solicitor-advocate

legal hub

slick

issue

overwhelming

City (the)

shrug off

global

putting off

routinely

Instructions For Study

1. Turn to the **definitions** following the text *International Arbitration*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to test your language skills.

International Arbitration

The growth of international arbitration is a seemingly unstoppable force, and London has been among the biggest beneficiaries of its increasing popularity with big business. In an International Arbitration Survey conducted by Queen Mary University and White & Case, London was named by 45 per cent of participants as the preferred and most widely used arbitral venue. London's relationship with international arbitration is mutually dependent as well as being mutually beneficial. "Arbitration is a key reason why London is a pre-eminent legal centre, and the fact we're a global hub is one of the reasons arbitration is doing so well in London," says Three Crowns founding partner Constantine Partasides QC.

As London has continued to thrive as the dominant centre for international dispute resolution in the world, arbitration has become the preferred form of resolution for cross-border disputes. "The big questions are – why arbitration, and why London," says Linklaters' Matthew Weiniger QC. "If you're drafting an international contract you're far more likely to choose arbitration over any single court jurisdiction, and over the past 20 years there's been a huge growth in global trade. It's as simple as that. So why London? We're open to business. Arbitration sells itself on global neutrality, and London's a place where parties choose the rules with no real interference from an outside body. That is in line with London's reputation for doing business generally." Indeed, arbitration rules are generally far simpler and more flexible than court rules. As a result, they are relatively easy to understand for parties of different nationalities. The proceedings are more easily focused on the substantive issues and the parties are better able to adapt the dispute resolution process to suit their relationship and the nature of their disputes than in litigation.

The foundations of the success of international arbitration in London are clearly defined. "People trust London as a seat of arbitration," Partasides continues. "They have huge confidence in the quality of the judiciary and the independence of it; confidence in the quality and modernity of the legal infrastructure; and confidence in the legislation put in place in 1996. They also have confidence in the legal community. Few places boast as many lawyers from around the world working in the field." The capital is pre-eminent in the arbitration market for much the same reason its court system is favoured by litigating parties all over the world. It can in part trace its roots to the ubiquitous nature of English common law – the most widely used legal system in the world – covering 27 per cent of the world's 320 legal jurisdictions. But the benefits of London as a seat of arbitration go further than the lure of its courts. "Our success is down to our infrastructure," adds Hogan Lovells litigation and arbitration head Michael Davison. "We have a good legal framework that people understand and that's supported by a pool of arbitrators and practitioners, plus the prevailing view that the English legal system is a good basis on which to contract. All of that is a big pull factor for London."

English law is still the main choice of law for commercial contracts and companies are twice as likely to choose English law over other governing laws for arbitrations. The Queen Mary survey found English law was chosen by 40 per cent of companies for contracts and New York state law by 17 per cent.

The reputation of London's fair and consistent judiciary, its willing pool of thousands of highly qualified lawyers and continued investment in its commercial court system have also contributed to the fact that London is the venue of choice for some of the most complex and high-value international disputes in the world.

However, London's position cannot be taken for granted. White & Case solicitor-advocate and partner David Goldberg says: "London has been one of the biggest winners out of the growth of massive international disputes, and it will continue to attract the highest value and most complex arbitrations unless steps are taken to push away these disputes. These steps include the current inaction by the Government to improve the quality of services and maintain the worldwide reputation of London as a legal hub in the face of rising centres in the East." The Queen Mary survey found that while the London Court of International Arbitration (LCIA) and International Chamber of Commerce (ICC) in Paris still dominate, more businesses now prefer the Singapore International Arbitration Centre (SIAC) and Hong Kong International Arbitration Centre (HKIAC) over the more mature seats of Geneva, Stockholm and New York, representing a significant widening of the playing field. "Singapore is providing a real challenge to London and other centres," says Davison. "The infrastructure's slick and the SIAC is a business-minded institution. It's getting a lot of work from China and India. "There was a sense a few years ago that London could soon hear a lot of Indian disputes because of similarities between our legal systems, but it just hasn't happened."

Britain's decision to leave the EU is increasingly shaping the debate, and it is difficult to ignore the Brexit issue when discussing arbitration, even if the overwhelming feeling is that it will have no material impact on London's pre-eminence. Although most City arbitration specialists shrug off the perceived threat of Brexit, other issues that could prove problematic to London's continued dominance in the global market weigh more heavily on their minds. "The cost could definitely impact arbitration development in London," says Weiniger. "London is a very expensive place to do arbitration, and it's putting off a lot of people." Weiniger points to Germany, Austria, Denmark and Sweden as increasingly attractive alternatives. "Their lawyers all speak wonderful English, the countries are extremely uncorrupt and the cost of doing arbitration is a third of what it is in London," he says. Indeed, the growing cost of arbitration is cited repeatedly as one of the biggest challenges to London as a venue, and lawyers routinely speak of clients who are "shocked" by the cost of holding an arbitration in the City, whether they win or lose their dispute.

Excerpt from: Tabby Kinder, *Can London win the Battle of the Arbitration Centres*,
The Lawyer, November 2016.

◇◇ DEFINITIONS ◇◇◇

- ◆ **international arbitration** a technique for resolving disputes outside of the court system between companies incorporated and/or doing business in different states or countries
- ◆ **big business** powerful and influential businesses, and financial organisations considered together as a group
- ◆ **arbitral venue** physical location where an arbitration takes place
- ◆ **founding partner** one of the original co-owners and investors in a partnership
- ◆ **QC** standing for Queen's Counsel, a barrister who has attained a high rank in his/her profession
- ◆ **dispute resolution** a process for resolving differences between two or more parties with the aim of achieving fairness for all
- ◆ **cross-border disputes** disagreements between companies from different states or countries
- ◆ **drafting** drawing up an agreement, such as a contract
- ◆ **jurisdiction (2)** the authority of a court, tribunal or other official organisation to make legal decisions and pass judgments
- ◆ **global trade** business conducted worldwide that involves making and collecting payments for transactions in goods and services, and transporting them to interested markets
- ◆ **business (1)** type of activity taking place in a profit-oriented organization such as a company or a shop
- ◆ **arbitration rules** the principles an arbitral body complies with and enforces
- ◆ **court rules** the regulations that guide court procedure
- ◆ **proceedings** action or procedure used in a court of law to obtain a desired result
- ◆ **substantive issues** relative to the matters in dispute
- ◆ **litigation** legal method for settling disputes before a court of law having the jurisdiction to hear the case
- ◆ **seat of arbitration** the jurisdiction (*lex fori*) that provides the framework underlying the arbitration, giving courts of the seat supervisory jurisdiction over the proceedings
- ◆ **judiciary (the)** all of a jurisdiction's judges and courts responsible for that country's legal system
- ◆ **legal infrastructure** all the processes, tools, documents, and other information systems such as telecommunication networks or the Internet that form the basis of, or facilitate, the daily functioning of the legal system
- ◆ **legal community** lawyers, judges and all those involved in the administration of justice
- ◆ **lawyers** people whose job is to give legal advice, write formal agreements and represent people in court
- ◆ **litigating parties** those who are involved in a dispute; *litigants*
- ◆ **English common law** the law that has developed in the common law courts over the years in England and Wales; *English law*
- ◆ **legal framework** a set of rules and regulations providing the lawful context in which a procedure takes place
- ◆ **arbitrators** persons trained to conduct arbitration procedures
- ◆ **practitioners** persons skilled in any specified area
- ◆ **contract** to enter into a binding legal agreement
- ◆ **governing laws** the legal provisions according to which the relevant contract is interpreted
- ◆ **solicitor-advocate** a lawyer who has not been called to the Bar but is qualified to plead before higher courts
- ◆ **legal hub** a centre for legal activities
- ◆ **City (the)** the financial heartland of the City of London

 ◇◇ **EXERCISES** ◇◇◇

◇◇ EXERCISE 1

Comprehension

True / False Circle the correct choice and justify your answer

- | | |
|--|-------|
| 1. London's popularity as an arbitral venue is on the wane. | T / F |
| 2. The fact that London is a global business centre doubtless explains in part its popularity as a centre for arbitration. | T / F |
| 3. Parties to cross-border disputes often favour arbitration over litigation. | T / F |
| 4. The independence of the judiciary and confidence in the integrity of the legal community are factors that favour London being chosen in preference to other venues. | T / F |
| 5. Those who choose to arbitrate in London are compelled to use English law. | T / F |
| 6. The reluctance of the government to invest in arbitration services could discourage some parties from arbitrating in London. | T / F |
| 7. London is facing stiff competition from Singapore and Hong Kong but seems to be holding its ground. | T / F |
| 8. Most Indian arbitral disputes are heard in London. | T / F |
| 9. Most analysts believe that Britain's decision to leave the European Union will have serious negative consequences for the arbitration scene. | T / F |
| 10. One obvious drawback to doing arbitration in London is the cost. | T / F |

◇◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate terms** to fit each sentence

- A growing number of businesses are choosing London as their preferred
- Jones trained as a before deciding to become an arbitrator.
- Most arbitration statutes and institutional rules recognise the distinction between the and the venue in which hearings may be held.
- Unlike courts, arbitral tribunals have no inherent power or – their authority arises from the parties' contract.
- Rather than a custom-made agreement, parties usually adopt, and modify as appropriate, a set of tried and tested arbitration rules.
- Arbitration usually provides greater privacy and confidentiality than, which is often public.
- An arbitration can also dwell on the in some detail to reach the best outcome for all parties concerned.
- Many countries have arbitration laws which provide a for the conduct of arbitrations.
- The parties eventually decided that it would be in their best interests to opt for an alternative strategy such as arbitration.
- The judge explained that when resolving ambiguities concerning the of an arbitration agreement, the English judge must refer to the conflict of law rules laid down by English common law.

(B) Find antonyms in the text for the following words and expressions

1. narrowly
2. disadvantageous
3. restricted
4. take into consideration
5. reluctant
6. losers
7. less developed
8. discrepancies
9. cheap
10. infrequently

(C) Find synonyms in the text for the following words and expressions

1. ostensibly, apparently
2. location
3. centre of activity
4. flourish
5. matters, questions
6. correspond to, match
7. attraction
8. measures
9. polished, professional
10. discouraging

◇ EXERCISE 3

Grammar

Comparatives and superlatives

Complete the following sentences with a comparative or a superlative form of the adjective in brackets, either by modifying the adjective itself or using *less, least, more, most*

1. It is (*expensive*) to arbitrate in London than in Germany.
2. Despite soaring costs everywhere, it is usually considered to be (*cheap*) to arbitrate than to litigate.
3. This firm currently has one of the (*well-respected*) arbitral teams working in the city.
4. Jenkins was considered by many to be the (*reliable*) judge in the commercial court.
5. Not so long ago Singapore was considerably (*appealing*) than London and Paris as an arbitration centre, but things have changed and it is now attracting a lot of business.
6. The commercial courts are some of the (*busy*) in the country – they have several weeks’ backlog of work.
7. Of all the arguments he put forward, the last was deemed to be the (*relevant*) and was promptly brushed aside by the judge.
8. Jones reckoned that the agreement was the (*bad*) he had come across in years – a real scandal in fact.

9. The American arbitrator was chosen in preference to the other candidates, but only by the (*narrow*) of margins.
10. The parties agreed that arbitrating in London was probably a (*costly*) way of settling their dispute than arbitrating in Sweden.

◇ EXERCISE 4

Assignment

Look up either one of the following arbitration courts or any other you know of, and **report** back to the class about its history and functioning

- The Arbitration Institute of the Stockholm Chamber of Commerce (SCC)
- European Court of Arbitration (CEA)
- The International Court of Arbitration of the International Chamber of Commerce (ICC/ICA)
- Hong Kong International Arbitration Centre (HKIAC)
- The International Centre for Dispute Resolution (ICDR)
- International Centre for Settlement of Investment Disputes (ICSID)
- London Court of International Arbitration (LCIA)
- Singapore International Arbitration Centre (SIAC)

CHAPTER 28

EMPLOYMENT LAW IN THE US AND THE UK

◇ Useful words and concepts

employment law

lawyers

workplaces

liaising

attorneys (US)

across the pond

labor

contracts of employment

fair dismissal

statutory minimum notice

employment “at will”

terminated (US)

lawful

without cause

without notice

pretty much

employee representatives

agreement

terms and conditions

senior management

EU directive

opted-out

requirements

work breaks

rest days

shift

entitled to

time and a half

holiday entitlement

enhanced

public holidays

leave

set minimum

staff

paid time off

paid sick leave

accrued

untaken paid time off

untaken holiday

discrimination

pregnancy

disability

whistleblowing

jurisdictions (1)

protected characteristic

deemed

redundancies

plant closures

workforce

collective redundancy consultation

establishment

severance payments

waiver and release agreement (US)

settlement agreement (UK)

ensure

tie

post-termination restrictions

enforceability

Instructions For Study

1. Turn to the **definitions** following the text *Employment Law in the US and the UK*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to test your language skills.

Employment Law

What are the main differences between US and UK employment law?

Lawyers dealing with US companies with workplaces in the UK, or liaising with those organisations' US attorneys, are often struck (as the organisations themselves are) by the differences in employment law 'across the pond'. It's not just that the US spells 'labor' differently to the UK and prefers Zs to Ss. There are many other differences.

Take contracts of employment. The UK concepts of fair dismissal and statutory minimum notice periods have no place in the US, where employment is presumed to be 'at will'. This means it can be terminated for any lawful reason, without either cause or notice. The same goes for amending contracts of employment. The UK requires consultation (sometimes with employee representatives) and agreement, whereas a US employer can pretty much change the terms and conditions of an 'at will' employee at any time.

If employment is not to be 'at will', a US written contract of employment should set out the terms that apply to the agreement. But such written employment contracts are not usual, other than for senior management and at-will employment continues to be the rule in most businesses.

In the UK, working time restrictions are derived from the EU working time directive which sets limits on average weekly working hours (unless employees are opted-out), and there are requirements for work breaks and rest days. In the US, employment law varies from state to state, but many states require rest breaks after a certain length of shift and almost all employees are entitled to be paid at time and a half after they have worked 40 hours in a week.

Annual paid holiday entitlement in the UK is also derived from EU law, although the government has enhanced the directive's requirement for 20 days' leave to 28 days, inclusive of public holidays. There is no such set minimum in the US, although most employers give staff between 10 and 20 days' paid time off a year (inclusive of paid sick leave), together with 11 federal holidays, and possibly some state holidays too. In some US states, an employee might be entitled to pay in lieu of accrued untaken paid time off when their employment comes to an end, like untaken holiday in the UK. In other states, there's no such entitlement.

US law, like UK law, prohibits discrimination because of sex, pregnancy, race, colour, national origin, religion, disability and age. Victimisation for whistleblowing is also prohibited in both jurisdictions. However, whereas the UK protected characteristic of age protects staff of any age, employees are only protected in the US if they are aged 40 or older, unless their local state government has lowered this age limit (for example, in New York, the protection starts at age 18).

US employers of 100 or more staff are usually required to give their employees at least 60 days' notice when considering mass redundancies and plant closures, involving 500 or more dismissals at one site, or a third of the total site workforce if fewer staff are involved. Some states impose more onerous obligations on employers. This compares to the collective redundancy consultation obligations in the UK, which require consultation with employee representatives to start not less than 30 days ahead of the first redundancy where 20 or more redundancies are proposed within a period of 90 days at one establishment (45 days ahead where 100 or more redundancies proposed).

When US employers make severance payments, they will often do so under a waiver and release agreement (this is similar to a settlement agreement in the UK), although various states impose particular requirements on such agreements. In practice, this means that where an employee has worked in both the US and the UK for one employer, or an associated company, the employer's representatives in each jurisdiction need to work together to ensure that all possible claims from that employee, in each country he or she has worked in, are settled under the terms of the appropriate agreements.

As in the UK, US employers will often wish to tie their senior management into post-termination restrictions. However, the enforceability of such restrictions, or even their prohibition, varies from state to state. Where they are allowed, US courts will apply a similar rule to UK courts in judging the fairness of those restrictions, especially whether they go no further than protecting the employer's legitimate business interests.

Andrew Knorpel, Mundays LLP, *Hiring and firing 'at will' versus unfair dismissal protection*, <http://www2.cipd.co.uk/pm/peoplemanagement/b/weblog/archive/2016/02/05/hiring-and-firing-at-will-versus-unfair-dismissal-protection.aspx>, February 2016.

◇◇ DEFINITIONS ◇◇◇

- ◆ **employment law** the body of law that governs the employer-employee relationship, including individual employment contracts, the application of tort and contract doctrines, and a large group of statutory regulations on issues such as the right to organize and negotiate collective bargaining agreements, protection from discrimination, wages and hours, and health and safety
- ◆ **lawyers** persons whose job is to give legal advice, write formal agreements and represent people in court
- ◆ **attorneys (US)** persons admitted to practise law; *lawyers*
- ◆ **labor** the human factor of the production process; *workers*
- ◆ **contracts of employment** oral or written agreements specifying terms and conditions under which a person consents to perform certain duties as directed and controlled by an employer in return for an agreed wage or salary
- ◆ **fair dismissal** ending an employment relationship on grounds that are reasonable and lawful
- ◆ **statutory minimum notice** obligation imposed by legislation to inform the party at a specified point in advance of the proposed action (such as a dismissal)
- ◆ **employment ‘at will’** a type of employment relationship in which either party may end the employment relationship at any time, for any lawful reason or for no reason at all, without incurring a penalty
- ◆ **terminated (US)** released from employment against the employee’s will; *dismissed (UK)*
- ◆ **without cause** when a decision is baseless and taken without justification
- ◆ **without notice** with no information or warning given in advance about a proposed course of action
- ◆ **employee representatives** union members or others who speak for employees in negotiations or consultation with their employers or in court or tribunal hearings
- ◆ **terms and conditions** general and special arrangements, provisions or requirements that form an integral part of an agreement or contract
- ◆ **senior management** a group of high level executives that actively participate in the daily supervision, planning and administrative processes required by a business to help meet its objectives
- ◆ **EU directive** a form of legislation that is communicated to European Union member states setting out the objective or policy that needs to be attained; *EU guideline*
- ◆ **work breaks** periods of free time during working hours
- ◆ **rest days** full days when the employee is not required to work
- ◆ **shift** daily period of time spent working – morning shift, afternoon shift, night shift
- ◆ **time and a half** payment for work (such as overtime) at one and a half times the worker’s regular wage rate
- ◆ **holiday entitlement** days off work to which the employee is entitled thanks to legislative provisions; *statutory holiday pay, statutory entitlement*
- ◆ **public holidays** national holidays established by law on which employees may not be required to work; *bank holidays*
- ◆ **leave** official, lawful time off work
- ◆ **staff** people paid for working for an organisation; *personnel*
- ◆ **paid time off** an employee’s non-working time for which the employer is under a statutory obligation to remunerate the employee, such as state holidays.
- ◆ **paid sick leave** time off due to illness for which an employee will be remunerated
- ◆ **untaken paid time off** any time off work that the employee is entitled to but has not taken

- ◆ **untaken holiday** holidays that are legally due to the employee but which he or she has not used
- ◆ **discrimination** less favourable treatment given to a person on the grounds of certain characteristics such as sex, gender reassignment, marital status, race, disability, sexual orientation, religion or belief or age.
- ◆ **disability** physical or mental impairment
- ◆ **whistleblowing** disclosing information that is in the public interest, such as denouncing malpractice or wrongdoing
- ◆ **jurisdictions (1)** territories to which the authority of a court, tribunal or other official organisation to make legal decisions and pass judgments applies
- ◆ **protected characteristic** a category introduced in the Equality Act 2010 to refer to persons who are protected under the Act, with respect to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation
- ◆ **redundancies** loss of jobs when the latter have ceased to exist or because there is no longer any work for the workers concerned; *layoffs*
- ◆ **plant closures** ending of a factory's economic activity
- ◆ **workforce** employees and workers engaged in a specific activity or enterprise
- ◆ **collective redundancy consultation** meeting between the employer and employee representatives prior to a layoff
- ◆ **severance payments** compensation an employer provides to an employee who has been terminated
- ◆ **waiver and release agreement (US)** an enforceable promise made up of a resolution between parties based on the principle that one party will forgo its right to proceed with a legal claim in exchange for money or other compensation
- ◆ **settlement agreement (UK)** legally binding document setting out the terms and conditions agreed by the parties when they agree to settle a potential employment tribunal claim or other court proceedings
- ◆ **post-termination restrictions** contractual provisions which seek to protect an employer's business by limiting the activities of employees after termination of employment

◆◆ EXERCISES ◆◆◆

◆ EXERCISE 1

Comprehension

Circle the alternative (a), (b) or (c) that most fully and correctly completes the statements below

1. US and UK employment law are
 - (a) essentially the same, because they are based on common law
 - (b) surprisingly different, given the heritage and language they share
 - (c) derived from English case law
2. In the US, the employment relation of an 'at will' employee
 - (a) can only be terminated if full notice is given by the employer
 - (b) is guaranteed so long as the employee abides by the law
 - (c) may be interrupted at any time by either the employee or the employer

3. An American employer
 - (a) may change the employment terms of his or her employee readily and with minimum formality
 - (b) is required by law to consult employee representatives before modifying an existing contract
 - (c) can only change the employment terms of his or her employee if the latter gives full written agreement to the change
4. In the UK
 - (a) annual holiday leave will always be given in addition to a 28-day minimum allowance
 - (b) annual holiday entitlement exceeds the entitlement of some other EU countries
 - (c) when an employee works on a public holiday there is a statutory right to extra pay
5. Whistleblowers exposed to retaliatory measures are given protection in
 - (a) neither the United States nor the United Kingdom
 - (b) some US states and throughout the UK
 - (c) all the US states but not in the UK
6. US Federal Law protects
 - (a) all employees over the age of 40
 - (b) employees aged over 18 in the state of New York
 - (c) employees aged 18 to 40, except in the state of New York
7. American federal law allows discrimination when
 - (a) the court considers certain characteristics necessary to the employer's business operations
 - (b) federal guidelines are backed up and reinforced by state provisions
 - (c) an employer can argue that certain characteristics constitute occupational qualifications
8. In both the US and the UK
 - (a) employers are required to propose alternative work to employees when there are plant closures
 - (b) employees must be informed in advance of any planned layoffs
 - (c) employers have an obligation to consult union leaders prior to any redundancies
9. A waiver and release agreement will
 - (a) have to be signed by a UK national resigning from a job in the US
 - (b) often be used as a way of making severance payments
 - (c) replace any settlement agreement signed in the UK
10. Confidentiality agreements between senior managers and their previous employers
 - (a) will always be enforced by the courts
 - (b) are prohibited in some US states
 - (c) are generally frowned upon in the UK as they are considered to be unfair

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate terms** to fit each sentence

1. The manager took time to go through the sales assistant's work obligations, but even so the latter spent over an hour reading through the of his new employment contract.
2. In the US it is legal for an employer to dismiss an employee but in the UK there must be valid reasons for the dismissal.

3. In the UK any right to paid time off for depends on the terms of the worker's contract.
4. An employee's inability to adapt to technological changes may be satisfactory grounds for a although an employer should offer training to the employee beforehand.
5. An American employer does not have to give to an employee he or she wishes to terminate.
6. An employee is typically given a when they are being made redundant.
7. In the UK, full-time employees regularly working five days a week are entitled to 28 days of paid each year.
8. The firm announced that regrettably there would have to be some on account of the unfavourable economic climate.
9. People who lose their jobs or are treated unfairly after can take their case to an employment tribunal.
10. According to UK legislation, there are no statutory in the event of non-economic dismissals.

(B) Fill in the blanks with the words from the list below

arrangement / assessment / attendance / beliefs / claim / decision / grievance / held / involved / leave / requirement / staff / team / time off / underlying

A Religious Discrimination Claim

The employment tribunal (1) in *Gareddu v London Underground Ltd* (2) an employee asking for a long period of (3) for religious reasons. Mr Gareddu is a Roman Catholic from Sardinia who goes back to his homeland in August every year to attend a series of religious events with his family. His employer, London Underground, had previously allowed him to take five weeks' annual (4) during the summer. After a change of management, he was told that he would not be able to continue with the (5). Unfairness to other (6) in his small (7) was cited as the reason. Mr Gareddu raised a (8) which was rejected. The employment tribunal rejected Mr Gareddu's subsequent religious discrimination (9) agreeing with the employer's (10) that (11) at the festivals was not a (12) of his religion.

The employment tribunal (13) that his presence in Sardinia for five weeks related more to his family arrangements, rather than any (14) religious (15).

◇ EXERCISE 3

Grammar

Tenses / Phrasal verbs

Replace the verb in *italics* with a phrasal verb from the list below, using the correct tense in the active or passive voice (a modal auxiliary will be required in some cases)

set out / close down / work out / take on / lay off / allow for / turn down / draw up / shrug off / bring up

1. The unions voted to take strike action after being informed that up to a hundred workers (*make redundant*).
2. The managers asked their lawyer whether the confidentiality agreement between themselves and the new employee (*draft*) by the end of the week.

3. The measures adopted by the government convinced the company that it (*hire*) new staff.
4. The contract (*present*) the terms of their employment relation.
5. She (*refused*) the job offer because she considered that the salary was too low.
6. When a discrimination issue (*raise*) by employee representatives, the employer insisted that he had done nothing wrong.
7. UK law does not (*include*) statutory entitlement to paid leave for public holidays.
8. Over recent years, some US employers (*reach*) severance payment settlements with staff upon termination of their employment although they were under no obligation to do so.
9. Pundits say that many small businesses (*shut*) after Britain's withdrawal from the EU and that severance payment negotiations with employees are likely to be fraught.
10. If employees' claims of workplace discrimination (*ignore*), they can take legal action against their employer.

◇ EXERCISE 4

Assignment

Research the principal differences between employment in France and in the UK. Look at the rights of those who are employed (employees, agency workers, contractors) and the nature of the contracts they work under.

CHAPTER 29

FREEDOM OF EXPRESSION AND THE RIGHT TO PRIVACY

◇ Useful words and concepts

freedom of expression
right to privacy (the)
Supreme Court Justices

prohibited
publishers
disclosing
reportedly
encounter
available

majority decision

privacy rights
outweighed
claimed

case

ruled

likely

permanent injunction

barring

trial

interim injunction

reinstated

in the meantime

ruling

overturns

judgment

Court of Appeal (the)

determined

lifted

appealed
media law

novel

points of law

acknowledges

namely

prevent

held

regardless of

jurisdiction (1)

grapple with

global

boundaries

issue

errors of law

leading judgment

overemphasised

weight

stressed

qualified

European Convention on

Human Rights

enshrined

UK Human Rights Act

interfering with

spectrum

public interest

conduct

copy

misleading

narrowly

due weight

intrusiveness

distress

hard copy

merely

disclosure

enduring

damages

stemming from

remedy

breach

granting

ensure

damage

defamatory statement

finding

at trial

allegation

cured

recoverable

upheld

discharge

application

Instructions For Study

1. Turn to the **definitions** following the text *Freedom of Expression and the Right to Privacy*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to test your language skills.

Freedom of Expression and the Right to Privacy

Supreme Court Justices have prohibited publishers in England and Wales from disclosing the identity of a male celebrity who reportedly engaged in an extra-marital sexual encounter with two other people, despite details of the scandal being widely available on the Internet.

In a majority decision, four of the five Supreme Court Justices said that the privacy rights of the celebrity and his family outweighed the freedom of expression rights claimed by News Group Newspapers in the case. It ruled that the celebrity is likely to win a permanent injunction barring the newspapers from publishing the story at a full trial in the case and, as a result, an interim injunction should be reinstated in the meantime. The Supreme Court's ruling overturns the judgment of the Court of Appeal in the case last month. The Court of Appeal had determined that the interim injunction should be lifted and cited the fact that the identity of the celebrity had been reported by publications in the US, Canada and Scotland and then subsequently repeated online as factors behind its decision. The celebrity appealed that decision to the Supreme Court and the interim injunction remained in place while the Court considered the case.

Media law expert Imogen Allen-Back of Pinsent Masons said: "This was a really difficult case for the Supreme Court. Often it deals with cases which involve difficult or novel points of law, but in this case it was being asked to decide whether the practical reality was that the information about the celebrity had become so widely known that reinstating the injunction would have been futile. The decision to reinstate it acknowledges that an injunction serves another function, namely to prevent intrusion into an individual's private life in circumstances where the courts have held that there is no public interest justification in publishing information about which that individual has a reasonable expectation of privacy. Regardless of whether the information is accessible to some degree, the injunction operates to protect further intrusion within the jurisdiction. The law will continue to grapple with the global nature of information, which is difficult to contain within territorial or jurisdictional boundaries. It seems highly likely that this type of issue will be back before the courts soon," she said.

The Supreme Court overturned the earlier ruling after determining that the Court of Appeal had made errors of law in coming to its judgment. In his leading judgment Lord Mance said that the Court of Appeal had overemphasised the weight to be given to freedom of expression considerations and instead stressed that arguments relating to the right to freedom of expression and the right to privacy have to be considered from the starting point that both rights are equal. Both the right to privacy and to freedom of expression are qualified under the European Convention on Human Rights, which is enshrined in UK law in the Human Rights Act. Where there is a conflict between freedom of expression and privacy rights there needs to be "an intense focus on the comparative importance of the rights being claimed in the individual case", and "the justifications for interfering with or restricting each right must be taken into account", Lord Mance said. A "proportionality test" must also be applied to each right, he said.

The judge said that celebrity sex scandal stories are “at the bottom end of the spectrum of importance” in terms of ensuring that freedom of expression rights are protected. He said there is no public interest, on its own, in reporting those stories despite the fact celebrities’ “private sexual conduct might interest the public and help sell newspapers or copy”. It may be different if the story contradicts a misleading public impression cultivated by that celebrity, he said.

The Court of Appeal also “focused too narrowly” on the fact that details of the celebrity’s identity had already been disclosed on the Internet, Lord Mance said. He said the Court of Appeal “did not give due weight to the qualitative difference in intrusiveness and distress likely to be involved in unrestricted publication by the English media in hard copy as well as on their own internet sites. There is little doubt that there would be a media storm,” Lord Mance said. “It would involve not merely disclosure of names and generalised description of the nature of the sexual activities involved, but the most intimate details. This would be likely to add greatly and on a potentially enduring basis to the intrusiveness and distress felt by the [celebrity], his partner and, by way of increased media attention now and/or in the future, their children.” The Court of Appeal gave insufficient consideration to the potential impact publication of the story could have on the celebrity’s children, Lord Mance said.

In reaching its decision the Supreme Court also assessed whether damages that might be available to the celebrity for any unjustified intrusion into his private life stemming from publication of the story about him would represent an “effective remedy” for that breach of privacy rights. Lord Mance said damages in the case would be “an inadequate remedy” for a breach of privacy caused by “further disclosure and publication in the English media” and that the granting of an injunction might be the only way in other cases too to ensure privacy rights are “satisfactorily protected”. “Damage done by publication of a defamatory statement can be redressed by a public finding at trial that the allegation was false, but an invasion of privacy cannot be cured in a similar way, and for that reason there may never be a trial, whatever damages might be recoverable,” Lord Mance said. Allen-Back said: “If the Supreme Court had upheld the Court of Appeal’s decision to discharge the injunction it is likely that an application would have been made to the European Court of Human Rights on the basis that the courts of England and Wales had not offered sufficient protection to the celebrity’s right to a private life.”

*This article first appeared on Out-Law.com, the news and insight service of international law firm Pinsent Masons
<http://www.out-law.com/en/articles/2016/may/supreme-court-backs-privacy-injunction-against-the-media-in-celebrity-sex-scandal-case/>.*

◆◆ DEFINITIONS ◆◆◆

- ◆ **freedom of expression** the right to say anything provided it does not cause harm to another, which is protected by Article 10 of the European Convention on Human Rights (ECHR)
- ◆ **right to privacy (the)** the right to control information about one's private life, protected by Article 8 of the ECHR
- ◆ **Supreme Court Justices** the judges who hear cases in the UK Supreme Court
- ◆ **majority decision** the legal conclusion reached by most of the justices hearing a case in the Supreme court as opposed to a unanimous decision, which would be reached by all the justices
- ◆ **privacy rights** people's right to lead their lives in a manner that is reasonably secluded from public scrutiny, to make personal decisions regarding intimate matters
- ◆ **case** a suit or action in law or in equity
- ◆ **ruled** decided by the court after hearing the evidence in the case
- ◆ **permanent injunction** an order of the court requiring a party to do or refrain from doing something
- ◆ **trial** formal examination before a competent tribunal of a matter in issue in a civil or criminal cause in order to determine such issue
- ◆ **interim injunction** an order issued by the court and granted up until a specific date before the trial requiring a party to continue or cease particular actions
- ◆ **overturns** when a higher court overrules or sets aside a lower court's judgment in an earlier case to prevent its use as a precedent; *overrules, sets aside*
- ◆ **judgment** a decision or determination taken by a court of competent jurisdiction on matters submitted to it; *judicial decision*
- ◆ **Court of Appeal (the)** the highest senior court in England and Wales, established in 1875, whose decisions can be appealed before the UK Supreme Court
- ◆ **determined** decided, reached a decision in a legal context
- ◆ **appealed** challenged by means of the appropriate procedure in a court of superior jurisdiction
- ◆ **media law** the areas of law commonly used in the world of entertainment and journalism, including, among others, tort, contract, employment law, human rights law
- ◆ **points of law** questions of how the law is to be interpreted
- ◆ **held** decided or ruled by a court during a trial or similar legal proceedings
- ◆ **jurisdiction (1)** territory to which the authority of a court, tribunal or other official organisation to make legal decisions and pass judgments applies
- ◆ **errors of law** decisions handed down by the court which at a later date are considered to have been reached on erroneous grounds
- ◆ **leading judgment** the legal opinion identified as being the most important one or the one that sets out the facts of the appeal in the greatest detail
- ◆ **European Convention on Human Rights (ECHR) (the)** formally known as the *Convention on the Protection of Human Rights and Fundamental Freedoms*, an international treaty drafted in 1950 by the Council of Europe which entered into force in 1953
- ◆ **UK Human Rights Act (the)** Act of Parliament that incorporated the ECHR into UK domestic law
- ◆ **public interest** welfare of the general public which warrants recognition, promotion, and protection by the government and its agencies
- ◆ **damages** common law remedy awarded to any claimant whose rights have been breached.
- ◆ **remedy** corrective measure taken by the court to right a wrong or to prevent a further wrong from being committed
- ◆ **breach** violation of the terms of an agreement or infringement of an obligation

- ◆ **defamatory statement** untrue remarks that demean or damage someone's reputation
- ◆ **finding** the result of the deliberations of a jury or a court; *statement, declaration*
- ◆ **recoverable** adjective used to refer to the amount of money to which a claimant who wins a lawsuit is entitled
- ◆ **upheld** confirmed that the decision reached by a court was the correct one
- ◆ **discharge** cancel the legal effect (of an injunction)
- ◆ **application** a formal request made to a court to hear a case

◆◆ EXERCISES ◆◆◆

◇ EXERCISE 1

Comprehension

True / False Circle the correct choice and justify your answer

1. The Supreme Court ordered that the interim injunction be lifted. T / F
2. The fact that the celebrity's name had already been published abroad was a determining factor in the Supreme Court's decision to hear the case. T / F
3. The only valid justification for an injunction is to prevent private information being made public. T / F
4. The Supreme Court accredited little value to the newspaper's freedom of expression rights on account of the nature of the information they wished to publish. T / F
5. The Appeal Court considered that the need to protect the identity of the celebrity was lessened by the fact that details of the affair were readily available on the Internet. T / F
6. In the opinion of the Supreme Court, the newspaper's motivation for publication was more closely linked with increasing sales than public interest matters. T / F
7. One of the arguments retained by the Supreme Court concerned the negative effects that publication could have on the celebrity's children. T / F
8. Damages can be considered a satisfactory remedy for a breach of privacy. T / F
9. Invasion of privacy and defamation may be remedied by the same means. T / F
10. Lord Mance argued that the Supreme Court should uphold the Appeal Court decision as this would reduce the likelihood that the celebrity would take his claim to the European Court in Strasbourg. T / F

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate terms** to fit each sentence

1. Given the nature of the case, the court held that the only appropriate would be damages.
2. The Supreme Court would doubtless have reinstated the injunction if the Appeal Court had chosen to it.
3. In a recent, the Supreme Court upheld the Appeal Court's decision to allow the appeal.
4. In cases involving both privacy rights and, the court must seek to balance the defendant's Article 8 rights against their Article 10 rights.

5. In refusing to grant the injunction, the judge that the information was clearly not of public interest.
6. In France in 1995, the disclosure of the contents of a dustbin was held to be a of privacy.
7. The judge pointed out that damages are not as of right when there has been an intrusion into someone's private life.
8. The judge declared that stories may be in the even if the reasons motivating the informant were less than noble.
9. The court granted an restraining the publication of information about the identity of the celebrity.
10. The court that the claimant's privacy had been breached after ruling that the evidence was both admissible and relevant.

(B) **Find** words or expressions in the text with equivalent terms to those in *italics* below

1. The judge *forbade* the newspaper from publishing the story
2. He *argued* that protecting people's reputations, particularly those in the public eye, was an obligation for the state.
3. When it came into force in 2000, the Human Rights Act struck people as being a *new* way to approach human rights issues.
4. The celebrity's lawyer argued that it was the role of the courts to *safeguard* people's privacy.
5. The journalist *insisted* that he had not done anything illegal.
6. The newspaper editor expressed dismay, saying that the courts should not be *meddling with* media affairs.
7. Public opinion was on the side of the celebrity and all agreed that the press's *behaviour* was unacceptable.
8. The newspaper admitted that the information it had published might be *ambiguous*, but it was certainly not false.
9. This judgment is likely to have a *lasting* effect on the development of the common law.
10. The *harm* that would be done to the actor's reputation if the information was made public was in no doubt.

◇ EXERCISE 3

Grammar

Causative and permissive verbs

Complete the following sentences with the correct form of the verbs *make*, *have* or *allow*, using a negative where necessary

1. The press article revealed sensitive information about the footballer's private life, which reportedly him furious.
2. The injunction issued by the judge left the newspaper with little choice other than the planned publication cancelled.
3. The journalist his press-card confiscated for breaching ethical standards.
4. The celebrity was not bothered about getting damages but wanted the newspaper's disrespectful practices denounced in public.
5. Eventually, after two unsuccessful requests, the reporter was given clearance and to interview the film star.

6. Despite his privileged status and public role, the minister was determined any intrusion into his private life.
7. The lawyer had never hidden the fact that he was not interested in privacy claims and so his junior stand in for him in the brief hearing in the High Court.
8. The journalist's line of defence will be that his editor him do it against his better judgment.
9. The new media law could publishers pay the costs incurred by the people who sue them, even if they win.
10. The editor the journalists write the story even though he had no intention of publishing it.

◇ EXERCISE 4

Assignment

Write a composition of about 400 words on the following subject:

Celebrities, politicians and criminals have forfeited their right to privacy – the press should have complete freedom to publish anything it wishes about such personalities, so long as it is true.

CHAPTER 30

FILM COPYRIGHT PROTECTION

◇ Useful words and concepts

copyright

appeal

issues

patents

Act

court

exercise jurisdiction

claim

infringement

breach

copyright law

intellectual property

rights

artefact

helmet

outcome

case

trial judge

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irrespective of

relevant

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graphics

dismissed the claims

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Court of Appeal (the)

allowed the appeal

current

statutory provisions

authorities

guidelines

regard

stray

contended

wholly

filmgoer

prop

portrayal

judgmental

appellate

interfere

Ltd

WRL

err in law

elephant test

common law rule

jurisdiction (2)

recovery of damages

entertain

trespass

***in personam* jurisdiction**

defendant

try

Instructions For Study

1. Turn to the **definitions** following the text *Film Copyright Protection*. They refer to the specialist terms printed in **bold** type in the list of **Useful words and concepts**.
2. Use an **English** language dictionary to find the meanings (in context) of the other words in the list.
3. Do the exercises to test your language skills.

Film Copyright Protection

Background to the appeal

The appeal raises two distinct legal issues:

(1) The definition of “sculpture” in the Copyright, Designs and Patents Act 1988, and, in particular, the correct approach to three-dimensional objects that have both an artistic purpose and a utilitarian function;

(2) Whether an English court may exercise jurisdiction in a claim against persons domiciled in England for infringement of copyright committed outside the European Union in breach of the copyright law of that country?

This appeal is concerned with intellectual property rights in various artefacts made for use in the first Star Wars film, “Star Wars Episode IV – A New Hope”. The most important was the Imperial Stormtrooper helmet. It has been treated as decisive for the outcome of the case. As the trial judge put it, “one of the most abiding images in the film was that of the Imperial Stormtroopers.” The film’s storyline and characters were conceived by George Lucas. Between 1974 and 1976 his concept of the Imperial Stormtroopers as threatening characters in “fascist white armoured suits” was given visual expression in drawings and paintings by an artist, Mr Ralph McQuarrie, and eventually three-dimensional form by Mr Andrew Ainsworth. He produced several prototype vacuum-moulded helmets. Once Mr Lucas had approved the final version, Mr Ainsworth made 50 helmets for use in the film.

The Appellants (here referred to collectively as Lucasfilm) own copyrights in the artistic works created for the Star Wars films. They have built up a successful licensing business, including licensing models of Imperial Stormtroopers. In 2004 Mr Ainsworth used his original tools to make versions of the Imperial Stormtrooper helmet and armour for sale to the public. He sold between \$8,000 and \$30,000 of the goods in the United States. Lucasfilm obtained judgment against him in the United States. It also commenced proceedings in the English High Court, including claims for infringement of English copyright and claims under US copyright law.

By the time of the Supreme Court hearing, Lucasfilm claimed only that the helmets qualified for copyright protection under English law as “sculptures” and not as “works of artistic craftsmanship”. In terms of section 4 of the Copyright Designs and Patents Act 1988, copyright subsists in, amongst other things, original “artistic works”, which includes a “sculpture”, irrespective of artistic quality. Whether a helmet was a “sculpture” is significant for two reasons. If it is, any copying of the helmets which Mr Ainsworth had originally produced would infringe Lucasfilm’s copyright. It is also relevant for the defences which are available. To produce a helmet by working from a drawing of it infringes copyright in the drawing. However, it is not an infringement of any copyright in a design document which records a design for anything other than an artistic work to make an article to the design or to copy an article made to the design: section 51 1988 Act. If the helmet did not qualify as sculpture, and was therefore not an artistic work, Mr Ainsworth had a defence to an English copyright action based on infringement of Mr McQuarrie’s graphics.

The High Court dismissed the claims for infringement of English copyright: the helmet was not a work of sculpture and therefore Mr Ainsworth had a defence under section 51. It held, however, that the United States' copyright claims were justiciable and that US copyright had been infringed. The Court of Appeal allowed Mr Ainsworth's appeal. It agreed that the helmet was not a work of sculpture but held that the US copyright claims were not justiciable. Lucasfilm appealed to the Supreme Court.

Judgment

The Supreme Court unanimously allows the appeal. It holds that the helmets were not sculptures but that the US copyright claims were justiciable in English proceedings. Lord Walker and Lord Collins give a joint opinion, with which the other members of the Court agree.

Reasons for the judgment

Sculpture issue

The court reviews the legislative history of the current statutory provisions and previous authorities as to the meaning of "sculpture". In the High Court, the judge had formulated various "guidelines" as to the meaning of sculpture. For example, some regard must be had to the normal use of the word "sculpture". The concept can apply to things going beyond what one would normally expect to be art, but it is inappropriate to stray too far from what would normally be regarded as sculpture. Not every three-dimensional representation of a concept qualifies. Lucasfilm contended that the helmet was sculpture as it had no practical function at all. Its purpose was wholly artistic, to make a visual impression on the filmgoer. That was not, however, how the trial judge and the Court of Appeal had viewed matters. Mann J found the helmets to be a mixture of costume and prop and that their primary function was utilitarian, namely to express an idea as part of character portrayal in the film. He held that this lacked the necessary quality of artistic creation required of a sculpture. This type of judgmental conclusion was one with which appellate courts should be slow to interfere, as Lord Hoffmann observed in *Designers Guild Ltd v Russell Williams (Textiles) Ltd* [2000] 1 WLR 2416. The judge did not err in law or reach an obviously untenable conclusion. It would not accord with the normal use of language to apply the term "sculpture" to, for example, a 20th century military helmet used in the making of a film, however great its contribution to the artistic effect of the finished film. The argument for applying the term to an Imperial Stormtrooper helmet was stronger, because of the imagination that went into the concept of the Stormtroopers. But it remained the Star Wars film itself that was the work of art. The helmet was utilitarian in the sense that it was an element in the process of production of the film. The Court noted that the law did not apply an "elephant test", but instead a multi-factoral approach.

Justiciability of foreign copyright claim

The Court of Appeal had held that the common law rule in *British South Africa Co v Companhia de Moçambique* [1893] AC 602 that an English court had no jurisdiction to entertain an action for the determination of title to, or the right of possession of, foreign land, or the recovery of damages for trespass to such land, was an example of a general principle which applied to claims for infringement of foreign intellectual property rights. The Supreme Court concludes that, provided there is a basis for *in personam* jurisdiction over the defendant, an English court does have jurisdiction to try a claim for infringement of copyright of the kind involved in the present action.

Press summary for *LucasFilm Ltd & Ors v Ainsworth & Anor* [2011] UKSC 39,
issued by the UK Supreme Court. <https://www.supremecourt.uk>.

◇◇ DEFINITIONS ◇◇◇

- ◆ **copyright** the exclusive legal right to reproduce, publish, sell, or distribute a creative production
- ◆ **appeal** a request brought before a higher court of law to reconsider a decision made by a lower court
- ◆ **patents** limited legal monopolies granted to an individual or firm to make, use and sell its invention, and to exclude others from doing so
- ◆ **Act** a statute enacted by Parliament; *primary legislation*
- ◆ **court** a place where justice is administered
- ◆ **exercise jurisdiction** deploy or exercise legal authority over persons or territory
- ◆ **claim** legal demand made by a claimant for compensation or redress
- ◆ **infringement** violation of the terms of an agreement or an invasion of an exclusive right of intellectual property
- ◆ **breach** violation of the terms of an agreement or infringement of an obligation
- ◆ **copyright law** the law regulating the right to reproduce, publish, sell or distribute a creative production
- ◆ **intellectual property rights** benefits held by a person or company to have exclusive rights to use its own plans, ideas, or other intangible assets without the worry of competition for a given period of time
- ◆ **case** a suit or action in law or in equity
- ◆ **trial judge** first instance judge presiding over a hearing in a lower court
- ◆ **appellants** parties appealing against an initial judgment that did not find in their favour
- ◆ **licensing (2)** the act of an owner of a copyright, know how, patent, service-mark, trademark, or other intellectual property allowing a licensee to use, make, or sell copies of the original by way of a written contract
- ◆ **judgment** a decision or determination taken by a court of competent jurisdiction on matters submitted to it; *judicial decision*
- ◆ **proceedings** action or procedure used in a court of law to obtain a desired result
- ◆ **High Court (the)** one of the Senior Courts in England and Wales hearing at first instance all high value cases
- ◆ **hearing** legal proceeding where an issue of law or fact is tried and evidence is presented to help determine that issue
- ◆ **English law** the law that has developed in the common law courts over the years in England and Wales; *English common law*
- ◆ **defences** legal arguments that satisfy the requirements necessary in a court case.
- ◆ **design document** a prototype document setting out the technical specifications and the desired end product that will be used as a starting point to guide a technician or artist
- ◆ **records** registers the specificity of a design with the relevant authorities
- ◆ **dismissed the claims** threw out or rejected the requests for relief on account of a lack of admissible evidence
- ◆ **held** decided or ruled during a trial or similar legal proceedings
- ◆ **justiciable** claim, issue, or matter which is appropriate for a court to review and decide by the application of legal principles
- ◆ **Court of Appeal (the)** the highest senior court in England and Wales, established in 1875, whose decisions can be appealed before the UK Supreme Court
- ◆ **allowed the appeal** decided in favour of the appellant

- ◆ **statutory provisions** stipulations or clauses to be found in legislation stating what is legally required
- ◆ **authorities** previous decisions by an Appeal Court which provide legal guidance to a court, or previously decided cases that constitute binding precedents
- ◆ **Ltd** abbreviation standing for limited, placed after the name of a company to show that the company is a limited liability structure with independent corporate identity
- ◆ **WLR (Weekly Law Reports)** an official periodical of English case law published by the Incorporated Council of Law Reporting
- ◆ **err in law** make a mistake in interpreting the law
- ◆ **common law rule** legal principle with binding authority laid down by a judge
- ◆ **jurisdiction (2)** the authority of a court, tribunal or other official organisation to make legal decisions and pass judgments
- ◆ **recovery of damages** obtaining redress in the form of monetary relief for a loss that has been incurred
- ◆ **trespass** the act of knowingly interfering with a person’s body or property without permission
- ◆ **in personam jurisdiction** having legal authority over a particular person, meaning that the judgment may be enforceable against that person wherever he or she may be.
- ◆ **defendant** an individual, company, or institution sued or accused in a court of law
- ◆ **try** examine judicially a request for compensation made against another person

◆◆ **EXERCISES** ◆◆◆

◆ EXERCISE 1

Comprehension

True / False Circle the correct choice and justify your answer

1. The trial judge suggested that the stormtroopers helmets were fairly trivial elements in the film and of limited interest to the wider issues raised by the case. T / F
2. The original sketches from which the stormtrooper helmet was derived were drawn by Andrew Ainsworth. T / F
3. Lucasfilm licensed Mr Ainsworth to make 50 copies of the helmet. T / F
4. Mr Ainsworth sold replicas of the helmets using the original moulds. T / F
5. Lucasfilm brought the suit against Mr Ainsworth in London because it had lost the one it brought in the US. T / F
6. The Supreme Court Justices were asked to determine whether the helmet was a sculpture or not. T / F
7. If Mr McQuarrie’s graphics constitute a design document, the helmet would not infringe copyright. T / F
8. The Supreme Court overturned the Appeal Court’s finding that the US copyright claims were not justiciable in English proceedings. T / F
9. The Appeal Court judge argued that the helmet was more a prop than a sculpture. T / F
10. The Supreme Court held that even where an English court has personal jurisdiction over a defendant, that person cannot be sued in England for infringement of foreign copyright. T / F

◇ EXERCISE 2

Vocabulary

(A) Use the list of definitions above to **select the appropriate terms** to fit each sentence

1. The court was asked to determine whether a claim for infringement of a US could be heard by an English court.
2. The decision confirms that such claims are in principle in England.
3. Indeed, the court unanimously held that the English court did have jurisdiction to the case.
4. The Supreme Court argued that it would be to to decide the case otherwise.
5. If the had principally been concerned with a question of title to or possession of property, the court would have decided otherwise.
6. In cases involving the title or right to foreign property an English court does not have
7. The took place in court number 7, as the courtroom generally used for copyright cases was considered too small, given the high media interest.
8. The initially brought proceedings against Mr Ainsworth in California.
9. They had developed a very profitable business in articles connected with the Star Wars films.
10. require registration, whereas copyright does not.

(B) Find **synonyms** in the text for the words in *italics*

1. The *result* of the court case was a triumph for the appellant and was given wide coverage in the national newspapers.
2. As the journalist *said*, the decision was a landmark judgment, and would have a major impact on future copyright claims.
3. Initially the artist wanted to take court action but *in the end*, after several meetings with his lawyer, he agreed to an out of court settlement.
4. The claimant brought an action for copyright infringement, but the defendant *asserted* that he had only parodied the original.
5. The film director congratulated the sculptor for his *artistic dexterity* and decided to use the prop in several scenes in the film.
6. The drawings were given automatic copyright protection, *regardless* of their intrinsic artistic value.
7. The judges conceded that the recent cases involving copyright infringement in the film industry mentioned by the appellant's lawyer were not *pertinent* to the case they had to decide.
8. The number of copyright claims coming before the courts is likely to remain at *present day* levels unless the law is changed.
9. In all countries there are official *recommended practices* to help artists avoid copyright infringement.
10. Creators do not need to *make a formal request* for copyright protection in the UK – it is accorded automatically.

◇ EXERCISE 3

*Grammar***Infinitive or Gerund?**

Complete the following sentences using the *infinitive* or the *gerund*

1. The lawyer urged his colleagues to (*think / thinking*) carefully about the repercussions that the court's decision would have on future copyright cases.
2. It took the film crew a long time to get used to (*film / filming*) at such a high altitude, but they all agreed that the artistic results were worth the discomfort.
3. The artist was disappointed that the director had rejected his initial drawings and said that he would refuse to (*alter / altering*) the design document.
4. After lengthy negotiations, the production company agreed to contribute to (*meet / meeting*) some of the distribution costs.
5. The defendants wanted to (*appeal / appealing*) against the decision as they considered the judge had erred in law in reaching his decision.
6. The lawyers agreed that producing the helmet in its present form would probably not amount to (*infringe / infringing*) the artist's design right.
7. The sculptor found the design document unattractive and was convinced that the end product would not be satisfactory, but thought it would probably be best to (*suggest / suggesting*) any modifications after the prototype had been produced.
8. Starwars fans were disappointed to find out that the production company did not intend to (*make / making*) any more films in the series.
9. There was so much negative publicity around the release of the new film that it was difficult to find anyone who was really looking forward to (*see / seeing*) it.
10. It used to (*be / being*) easy to bring a claim for copyright infringement, but nowadays things are not so straightforward.

◇ EXERCISE 4

Assignment

Explore the webpages of the *World Intellectual Property Organization*¹ to learn how different categories of intellectual property rights benefit from international protection.

Report back to the class on the specific characteristics of one of the following categories:

- international patent protection
- international trademark protection
- international design protection
- international protection for geographical indications

1. wipo.int/portal/en/index.html

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Composition et mise en page : Soft Office



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Anglais appliqué 1 est un ouvrage d'apprentissage de l'anglais de spécialité destiné principalement aux étudiants inscrits en licence et en master de Sciences économiques, de Droit, de Gestion et d'AES. Il convient aussi aux étudiants suivant les enseignements des doubles filières Gestion-Droit ou Gestion-Cinéma, et peut également servir de support à l'enseignement de l'anglais dans les écoles de commerce, la filière Langues étrangères appliquées (LEA), certaines sections d'IUT et de BTS, et en formation continue.

Pour cette 4^e édition, les auteurs ont créé vingt-deux nouveaux chapitres et en ont remanié huit autres. Chaque chapitre comprend une liste de termes à étudier que l'on trouve dans le texte proposé qui est extrait d'un ouvrage universitaire, d'un article de recherche, d'un article de la presse spécialisée, d'une conférence publique ou d'un arrêt. Le texte est ensuite didactisé par le biais d'exercices de compréhension, de vocabulaire et de grammaire. Des activités de prise de parole, de rédaction ou de recherche sont également proposées dans le chapitre. Un index lexical comprenant près de 1 600 termes spécialisés et un index grammatical se trouvent en fin d'ouvrage.

Les utilisateurs disposeront d'un outil de travail recouvrant une riche thématique économique, juridique et sociale qui aborde les sujets ci-après : l'économie collaborative, le développement durable, la croissance et l'emploi, le syndicalisme, la sécurité sociale, les monnaies virtuelles, les marchés boursiers, la création d'entreprise, les fusions et acquisitions, les sociétés coopératives, les plateformes digitales, la consommation collaborative et les stratégies de vente. Les chapitres consacrés aux sujets juridiques portent sur les fondements du droit, les droits fondamentaux, les questions constitutionnelles, la personnalité morale, la fraude fiscale, la concurrence, le travail, la presse et la propriété intellectuelle.

Quatre autres chapitres sont consacrés à l'industrie cinématographique, qui est traitée sous ses aspects économique, commercial et juridique.

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