

## **Aim**

To provide an overview to illustrate

- ★ when merchants and traders need professional advice, and
- ★ the context in which to understand and use that advice

## **Contract**

Making the contracts you want to make, and avoiding the commitments you don't want to accept

## **Tort**

Avoiding infringement of the rights of others, and giving adequate notice to others of your rights that you may want to enforce

## **Regulation**

Complying with regulations

- ★ So as to avoid penalties
- ★ So that rights are enforceable

## *Contract*

*Making the contracts you want to make, and avoiding the commitments you don't want to accept*

## **Mechanics**

Offer and acceptance

Offers to treat

Writing and signature

Incorporating terms

## **Standards**

Sale of Goods Act 1979

([www.legislation.gov.uk](http://www.legislation.gov.uk))

Supply of Goods and Services Act 1982

Implied terms – different treatment of consumers and traders

## **Limits**

Unfair Contract Terms Act 1977

Unfair Terms in Consumer Contracts Regulations 1999

## **One World?**

Applicable law

Place of litigation

Enforcement of foreign judgments

Arbitration

## *Tort*

*Avoiding infringement of the rights of others, and giving adequate notice to others of your rights that you may want to enforce*

## **Defamation**

Derogatory statements you cannot prove true  
Linking to others' statements

## **Negligence**

Careless advice causing injury or (sometimes) loss

## **Copyright**

Making derivative work  
Publishing others' work (linking)  
Asserting your own claim: © Nicholas Bohm 2011

## **Trademarks**

Taking others' reputation  
Marking: ®, ™, narrative

## **Patents**

Novel non-obvious inventions  
Scope differences US/UK/EU  
Cost

## *Regulation*

*Complying with regulations*

- ★ *So as to avoid penalties*
- ★ *So that your rights are enforceable*

## **Distance Selling**

Consumer Protection (Distance Selling) Regulations 2000

Detailed rules on content of “selling” web pages

## **Data Protection**

Data Protection Act 1998

Need to register purposes of processing

## **Consumer Credit Act 1974**

Formalities for credit agreements

Financial protections for cardholders

## **Special cases**

Share dealing, insurance, banking, gambling, prescription drugs, pornography, tobacco, alcohol, fireworks, guns, etc