LEANZ ESSAY 2026 COMPETITION – GUIDANCE NOTE

WHAT IS A LAW AND ECONOMICS LENS?

Guidance for Entrants: Using a Law and Economics Lens to Analyse a New Zealand Policy or Regulatory Problem

Law and economics is best understood not as a fixed doctrine or political viewpoint, but as a method of inquiry. It combines careful attention to legal institutions with economic reasoning about incentives, information, costs, and human behaviour. Its purpose is not to defend or oppose regulation, markets, or particular political positions. Rather, it seeks to understand how different legal and institutional arrangements are likely to perform in practice, and what consequences they will have for human welfare.

The field is broad and evolving. It is associated with scholars such as Ronald Coase, George Stigler, Gary Becker, Richard Posner, Guido Calabresi, James Buchanan, Gordon Tullock, Oliver Williamson, Douglass North, Elinor Ostrom, and others. Different schools of thought often disagree. Essays should therefore demonstrate analytical rigour rather than allegiance to any particular perspective.

What Makes an Essay "Law and Economics"?

A law and economics essay does more than identify a legal issue or apply economic concepts to a policy problem. It examines how legal rules, institutions, and incentives interact, and evaluates their likely consequences.

Strong essays typically:

- Analyse the behaviour that legal rules encourage or discourage.
- Consider how people, firms, courts, regulators, and governments respond to incentives.
- Examine information problems, transaction costs, and enforcement realities.
- Compare alternative institutional arrangements rather than assuming regulation or markets are inherently superior.
- Support arguments with evidence and empirical research.

The focus should be on understanding how the law works in practice, not merely how it is intended to work.

Core Analytical Questions

1. Compared to What?

One of the most important insights in law and economics is that policy choices must be compared against realistic alternatives.

Identifying a market failure, social problem, or regulatory gap is not enough. The relevant question is whether an alternative institution is likely to perform better.

Essays should compare relevant alternatives, such as:

- Existing legal rules;

- New regulation;
- Courts and private enforcement;
- Market-based solutions;
- Industry self-regulation;
- Community governance arrangements;
- Maintaining the status quo.

Avoid the "nirvana fallacy": comparing real-world imperfections with an idealised regulator, court, or market.

2. What Incentives Are Created?

Law and economics begins with the premise that people respond to incentives.

Essays should explore:

- How individuals, firms, regulators, and governments are likely to respond to proposed rules;
- Whether rules create unintended consequences;
- Whether compliance costs change behaviour;
- How participants may adapt or find substitutes.

The strongest analyses consider both intended and unintended effects.

3. What Are the Transaction Costs?

Following Coase, legal and policy problems should be analysed through the lens of transaction costs: the costs of obtaining information, negotiating agreements, monitoring behaviour, enforcing rights, and resolving disputes.

Students should ask:

- What costs prevent parties from resolving problems themselves?
- How do legal rules reduce or increase those costs?
- Which institutional arrangement minimises these costs most effectively?

4. What Information Problems Exist?

Information is costly and imperfect.

Many legal and regulatory issues arise because parties possess different information or face difficulty obtaining it.

Essays should consider:

- Information asymmetries;
- Disclosure requirements;
- Signalling and reputation mechanisms;
- Monitoring and verification challenges;
- The costs of producing and using information.

5. How Will Institutions Actually Perform?

Law and economics is concerned with real institutions, not idealised ones.

A strong essay recognises that:

- Regulators face resource constraints;
- Courts are costly and imperfect;
- Governments can make mistakes;
- Markets sometimes fail;
- Organisations and individuals operate with limited information and limited cognitive capacity.

Drawing on public choice theory, essays should also recognise that legislators, regulators, and interest groups have incentives of their own. Policies should therefore be assessed based on how institutions are likely to function in reality.

6. Does the Solution Require Knowledge That Nobody Has?

The Austrian and institutional traditions highlight the importance of dispersed knowledge.

Students should consider whether a proposed intervention assumes regulators or decision-makers possess information that is difficult, costly, or impossible to obtain.

Policies that depend on highly centralised knowledge may face practical limits even when their objectives are desirable.

7. How Do Institutions Evolve?

Law and economics is not only concerned with static efficiency.

Insights from evolutionary economics and institutional economics remind us that legal and economic systems evolve over time. Effective institutions often emerge through experimentation, learning, adaptation, and competition among ideas.

Essays should consider how rules may shape long-term institutional development, innovation, and social outcomes.

The Importance of Evidence

Empirical evidence should anchor analysis.

Good essays use evidence not merely to support a preferred conclusion, but to test it.

Students should:

- Use data where available;
- Consider evidence that challenges their position;
- Distinguish assertion from demonstrated fact;
- Be willing to revise conclusions if evidence points elsewhere.

Theory matters, but theory should remain connected to observable reality.

What Judges Are Likely to Reward

Strong entries are likely to demonstrate:

- Clear identification of a significant New Zealand legal, regulatory, or policy issue.
- Sound understanding of relevant legal institutions.
- Use of economic reasoning to analyse incentives, information, transaction costs, and behaviour.
- Serious comparison of alternative institutional arrangements.
- Awareness of implementation challenges, enforcement realities, and political economy considerations.
- Engagement with evidence.
- Balanced analysis that acknowledges trade-offs and uncertainty.
- Conclusions that follow logically from the analysis.

Final Thought

The hallmark of excellent law and economics scholarship is not reaching a particular answer. It is applying a disciplined analytical framework to understand how legal institutions shape behaviour and outcomes. The best essays will be intellectually curious, empirically grounded, attentive to institutional realities, and willing to follow the analysis wherever it leads. Sometimes the most valuable conclusion is not that one solution is perfect, but that every available option involves trade-offs that must be evaluated carefully and honestly.