Q1 This is an issue dealt with under the Professional / Business Ethics banner. The student has discussed similar scenarios. There is no prescriptive answer. I am looking for a balanced approach, persuasive argument and an ability to think beyond the obvious.

(a) The list of options, are as follows:

1. Sack Dave. He could have destroyed BSS by his actions which, served to enhance his career prospects. Sacking Dave will send a serious message thru the organisation and will help to prevent future recurrences. However, it is very harsh. If the reasons for his dismissal are not clear to his work colleagues, then loyalty and commitment may suffer. If the reasons are clear, two things happen: Dave will struggle to get another job in this industry, but the company’s reputation may suffer.
2. Demote Dave. This way, the consequences for Dave are not as serious and you have an example to point to. Dave may respond by becoming a negative force in BSS, in which case he must be dismissed.
3. Bury it. The whistleblower probably can’t stand up his allegation without access to internal files. Punishing Dave risks the story getting out to the market. Competitors would have a field day.

There is no right answer here, although I’d lean towards (1). It is crucial that the student commit themselves to a particular course of action, and justify their approach. 10 Marks

(b) Influencing ethical behaviour in business organizations is a multifaceted problem with many traps and pitfalls. In developing a system for managing ethical behaviour, a firm may have to modify its structure, selection and training procedures, reporting system, reward system, communication system and internal auditing procedures.

Behave ethically yourself

This is first and foremost in influencing ethical organizational behaviour. It is not the corporation itself that exerts moral responsibility, but rather the individual members of the corporation. Therefore, the institutionalization of high ethical standards in corporations ‘stems from the character of persons who occupy the relevant positions.' Managers cannot expect ethical behaviour from employees if they do not behave ethically themselves.

Screen Potential Employees

Since individuals are likely to face ethical issues most of their lives, there is little doubt that potential employees have significant ethical decision histories when they apply. Thus the first line of defence against unethical behaviour in the organization is the employment process.

Develop a meaningful code of ethics

Codes of ethics are probably the most visible sign of a company's ethical philosophy. In order for a code of ethics to be meaningful, it must clearly state its basic principles and expectations; it must realistically focus on the potential ethical dilemmas which may be faced by employees; it must be communicated to all employees; and it must be enforced.

Provide ethics training

Employees need to have an experiential awareness of the types of ethical dilemmas they may face, and they need to know what actions to take in these dilemmas. Providing ethics training for employees is one key to increasing this awareness.

Reinforce ethical behaviour

The reinforcement system of the company must support ethical behaviour. Employees should be rewarded for behaving ethically, and they should be punished for behaving unethically. This is not as simple as it sounds, however. It involves developing a clear understanding of how ethical behaviour is defined by the organization, developing a system to measure and report ethical behaviour, and developing a performance and appraisal system that includes ethical behaviour

Create positions, units and other structural mechanisms to deal with ethics

No cooperative effort for influencing ethical behavior from within an organization is going to be successful unless it is supported by the authority structure and culture of an organization. One way to operationalize such support for ethical behavior is by creating structural mechanisms for managing ethics. A variety of structural mechanisms designed to advise management about ethics, monitor ethical behavior among employees, communicate ethical policies, serve as ombudsmen for reporting ethical violations, etc. can be put in place in business organizations.

10 marks

Q2(a)

For an agreement to constitute a contract it must have the following elements or ingredients:

1. there must be ***agreement*** between the parties (this will usually come about as a result of offer and acceptance)
2. there must be ***consideration*** (unless the agreement is made under seal)
3. there must be the ***intention to contract*** (Note: this is an objective test)
4. there must be ***contractual capacity***
5. the ***consent*** to contract must be freely given
6. the terms of the contract must be ***legal*** and be capable of being performed

OFFER

An offer is a proposition put by one person to another person coupled with intimation that he is willing to be bound by that proposition. The **offeror** is the person making the offer to a particular person or to a group of people or to the whole world. He may make his offer in writing or in spoken words or by conduct. Thus the offer may take any form from an elaborate document with numerous clauses and sub-clauses and an ordinary everyday act such as a bus-driver pulling up at a bus-stop.

ACCEPTANCE

With acceptance we must have

1. The fact of acceptance
2. Communication of acceptance

Just as an offer can be made by conduct so can acceptance, e.g. .in the case of a unilateral contract. If I make an offer of a reward for my lost Fido…The returning to me of the dog is the act or conduct, which constitutes acceptance of the offer of the reward.

**Acceptance must be communicated**

The offeree may have made up his mind to accept but it is not an acceptance until it has been communicated to the offeror. This applies to all contracts except to unilateral contracts e. g. the reward for the lost dog

CONSIDERATION

Consideration is some benefit accruing to one party or some detriment suffered by the other. Often the benefit and the detriment looked at from different points of view.

The doctrine of Consideration is that an agreement will only be enforceable if it contains consideration that is if it is bargain. It need not be a good bargain, indeed it may well be a very bad bargain.

Consideration must be sufficient, but it need not be adequate. As long as some value has been given the Courts will not ask if adequate value has been given.

THE INTENTION TO CREATE LEGAL RELATIONS

The intention to create legal relations means the readiness of each party to the contract to accept the legal consequences if he does not perform his contract. It is useful to differentiate between social and domestic agreements and commercial agreements. 10 marks

(b)Computerplanet may be more than happy to refund or replace the product without quibble.. However if this is not the case then both Tony and Eddie must fall back on the legal approach.

Tony and Eddie have different rights because Eddie bought the product as a consumer while Tony bought it for use in his business. Thus Tony is limited to using contract law to assert his rights while Eddie can rely on the superior protections offered by the Sale of goods act 1893 and 1980.

The fact that the purchases were conducted online has no bearing on the rights of either. The Electronic Commerce directive and the associated act gives equal status to online contracts as face to face or written contracts. Of course this only applies within the EU but both parties to these contracts are within Ireland so irish law applies.

So Tony must look to the contract. Was there a warranty specified or implied? Did he press an accept button without going through the pages of terms and conditions associated with the transaction. If there is no warranty or guarantee then he has no recourse since “Caveat Emptor” applies;- Let the buyer beware…

Eddie can fight his case using the Sale of Goods act. The important feature here is that there is an implied undertaking on the part of the seller that the goods are of merchantable quality.

They must be fit for the purpose or purposes for which goods of that kind are commonly bought and as durable as it is reasonable to expect, having regard to any description applied to them, the price, and all other relevant circumstances.

Where no purpose is mentioned to the seller there is a condition that the goods are fit for some purpose i.e. merchantable as such. Where the purpose is stated the implied condition is that they shall be fit for that purpose. Frequently fitness for the purpose and merchantable quality will overlap.

To qualify the fitness for purpose condition the purpose must be disclosed to the seller.

It is no defence that the seller could not have known that goods were unfit – where they were manufactured by someone else. The standard is one of absolute liability.

The seller cannot exclude these implied terms.

Thus Eddie is in a much stronger position to fight his case as a result of the Sale of goods act. 10 mark

Q3 This question addresses societal issues associated with computer technology and the internet. This topic was discussed in the classroom. The student must discuss both sides of the story and avoid jumping on any of the many bandwagons presenting themselves.

(a) Copyright theft is wrong and, on the face of it, Richard ODwyer is getting his just desserts. What disturbs Jimmy Wales is that ROD is not charged with a crime in Britain, where the “crime” was committed. Rather, he was threatened with extradition to the US, a country which he had never visited. Wales is not a bystander on the issue of copyright, having aligned himself with the anti SOPA side in 2012. It may be argued that he is less concerned with ROD than with having a go at the copyright defenders who are attempting to internationalise the fight for the rights of Copyright holders. The dilemma for copyright holders is that different laws in different countries make it next to impossible to protect their IP. Thus they try to scare potential copyright thieves by making an example for a “small man” like ROD.

10 marks

(b) Yes the internet in particular is to blame…. Well, copyright theft is committed by individuals, not by machines but the internet is the enabler, not just of the theft itself but of the problems associated with adequately addressing the theft. As Wales suggests, 50 years ago, copyright theft was the preserve of specialists, now it’s easy to do and difficult to deal with. The issue of an international response ie agreed international laws, is the holy grail of the content producers but is at best a long way in the future. One may feel sympathy, particularly for small content producers and software houses who are suffering, but they are caught in a bind, where copyright is protected by law in the vast majority of jurisdictions but going after those who infringe copyright is uneconomic and difficult. 10 marks

Q4 (a) This question is based on two articles discussed on the course. The pace of change in the software industry means that skills quickly become obsolete. So fresh young graduates are cheaper than experienced engineers, and just as useful…. Maybe. The implications are that engineers must either try to stay ahead of the curve or migrate into a management role, or find a new career path. 10 marks

(b) LLL is more significant in the rapidly evolving software engineering industry than just about any other sector. The responsibility lies squarely with the individual. Even though employer initiatives such as Continuing professional Development can help, it is ultimately up to the individual to take charge of his/her own career development 10 marks