

## Consumer Law

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Student: \_\_\_\_\_

Points: \_\_\_\_\_

## Problem Set 3

### Problem 9.1

#### Mass. Statute

- Mirrors FTC Act (§ 2(a))
- Incorporates FTC & federal court interpretations (§ 2(b) & (c))
- Private civil action (§ 9)

#### Unfair

- FTC Act (§ 45(n))
  - causes substantial injury
  - not reasonably avoidable by consumers
  - not outweighed by countervailing benefits
- Focus: Impact on ability to make informed choice

#### Deceptive

- FTC Policy Interpretation
  - representation, practice, or omission likely to mislead consumers
  - consumer interpretation is reasonable under circumstances
  - deception is material, i.e. likely to affect consumer decisions or behavior
- No balancing test (cf. unfair)

### Problem 10.1

#### Warranties

- Uniform Commercial Code
  - Express Warranty (UCC § 2-313)
    - affirmation of fact or promise related to the goods (“fine as far as I know”?)
  - Merchantability (UCC § 2-314)
    - Seller is merchant in goods of that kind
    - Implied representations include fitness for ordinary purpose
  - Fitness for Particular Purpose (UCC § 2-315)
    - Seller has reason to know
      - buyer’s particular purpose, and
      - buyer’s reliance on seller’s skill or judgment
    - Implied representation that goods are fit for buyer’s purpose
  - Exclusion or Modification (UCC § 2-316)
    - Effect of buyer’s examination
- Magnuson-Moss
  - If written warranty
    - Required disclosure of terms (§ 2302)
    - Revocation of implied warranties not allowed (§ 2308)

#### Remedies

- UCC
  - Revocation of acceptance (§ 2-608)
    - buyer must notify seller within reasonable time after discovery
  - Suit for damages (§ 2-714)
    - difference in value between non-conforming and conforming goods
    - incidental and consequential damages
      - cost of charger?
- Magnuson-Moss
  - Civil action (§ 2310(d))
    - State or federal court
      - Minimum amounts in controversy for federal court
    - Damages or equitable relief