Australian Consumer Law

Name

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Course

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Date

**The Bolt Worldly advertisement is in contravention of any provisions under the ACL.**

Chapter 2, Part 2-1, Subsection 1 of the Australian consumer law provides that no person should engage in commerce or trade or any conduct that is considered to be deceptive or misleading to the public (Corones, 2011). As such, organizations and people engaging in business are required to provide consumers with information that is correct concerning their products. Such information should include information that is labelled on the products together with any information that is used to advertise the products. The *Worldly* advertisement by bolt contravenes this provision as it offers individuals with false information concerning the mobile phone. It is clear from the case that in as much as the advertisement mentions that the mobile phone was made by Australians for Australians, a less clear statement has been included at the bottom of the advertisement indicating that the phone was manufactured in Thailand. This is a clear indication that Bolt did not want the consumers or readers of the advertisement to see the country of origin of the product and to believe that it was manufactured in Australia. As such, the placing of the first statement about the phone being made by Australians in bold and the deliberate writing of the second statement about the true origin of the phone in faint and small print is likely to deceive or mislead consumers.

In addition, Bolt deliberately increased the prices for two days prior to the advertisement in order to reduce them to their initial price and indicate that the prices had fallen. This is meant to deceive the consumers and to draw in more customers who are likely to demand the product based on the discount, when the price offered is the actual and initial normal price of the product (Malbon & Nottage, 2013). Lastly, in as much as the advertisement insists on the mobile phones low radiation rating, it is clear that the company has never done any radiation tests on the phone and hence has no grounds for establishing this finding. As such, the company also intended to deceive the consumers on this aspect in order to draw more consumers towards the product and to increase sales as this would allow it to achieve an increase in terms of its profit margin. Part 3-1, Subsection 1 of chapter 2 of the Australian Consumer Law further explains the various actions that may be considered as misrepresentations or misleading under the law. Part (a) of subsection 1 considers it a contravention of law if any person is to offer misleading representation with regards to the quality, standard, value, composition, grade, model, or style of a product (Malbon & Nottage, 2013). The information concerning the *Worldly’s* 20% radiation levels contravenes this provision. Part (i) of subsection 1 also prohibits individuals from making misleading representations with regards to the prices of products or services. The price changes and proclamations made by Bolt with regards to the *Worldly* mobile phones is a contravention of this provision. Part (k) of Subsection 1 also provides that persons should not make misleading or false representation with regards to the place of origin of certain goods. Bolt contravenes this provision when they place and emphasis on the place of origin of the *Worldly* mobile phone as being Australia, when it is actually Thailand. As such, bolt are liable for providing consumers with information that is misleading and deceiving under the Australian Consumer Law.

**Bolt is in breach of the guarantee provisions under the ACL. What rights or remedies (if any) are available to Hannah?**

Bolt is in breach of the guarantee as to the fitness of the computer offered to Hannah for the purpose that she had disclosed to the salesperson prior to purchase, under the Australian Consumer Law. Under Section 55 of the ACL, it is clear that if any supplier supplies certain goods to a consumer in a commerce or trade, there is a guarantee that such goods are fit in a reasonable way to a disclosed purpose to the supplier, provided the supply is not carried out by manner of auction (Pearson & Batten, 2010). When Hannah and her friend visited Bolt’s shop and inquired about a laptop disclosing the purpose to which she wanted one as being so as to record her lecture notes which would require a battery that lasts more than eight hours, it was the responsibility of Lily, the saleswoman to provide her with the correct information concerning the laptops and to suggest one that befits Hannah’s descriptions. Any purchase that Hannah was to make was based on her trust that the information provided by Lily was in congruence with her requirements as Lily was in a better position to understand the products.

In addition, Section 56 subsection 1 provides consumers with the guarantee of supply by description. In this case, it is expected that any goods supplied by a person to a consumer in commerce or trade should correspond with the provided description (Morandin & Smith, 2011). Lily, Bolt’s saleswoman contravened this provision through the description she provided Hannah concerning the new Bolt *BP.* Lily informed Hannah that the Bolt BP had a battery that lasted up to twelve hours without the need to charge, when the laptop only lasted four hours after being purchased by Hannah. As such, it is clear that Lily only said that to Hannah to make a sale. It was expected of Lily as a representative of Bolt to offer information that corresponds to the actual state and nature of the products on display in order to help Hannah make an informed decision on whether to purchase any of the products or not. Considering the fact that the offered product was not according to the purpose disclosed by Hannah to Lily, it was important for Bolt to either offer Hannah a replacement that meets the initial description, or refund her the money. However, Bolt failed to do this and instead showed Hannah a notice that described an encumbrance that comes with the product. It is important to note that through this move, Bolt contravened the provision under section 54 of the ACL, which involves the guarantee with regards to undisclosed securities. In this case, the law provides that if an individual supplies goods or products to a consumer, the latter’s good are guaranteed freedom from any security in the case where no encumbrance security, or charge is disclosed in writing to the consumer prior to the agreement to the supply or without the consumer’s consent (Morandin & Smith, 2011). This was the case in Hannah’s case as Lily did not inform her of the encumbrance underlying the purchase of the Bolt *BP*.

**Bolt has engaged in any prohibited conduct under the ACL in relation to their dealings with Crisco?**

According to section 154 subsection 1 of the Australian Consumer Law, it an offense for a person to offer a gift, rebate, prize, or any other item in commerce or trade, if such an offer is aimed at obtaining favors in relation to the possible supply or supply of services or goods, or, by any means, the promotion of the use or supply of services or good (Latimer, 2012). Bolt contravened this provision in their dealings with Crisco by asking for a rebate that would allow them to commit to their relationship with Crisco. In as much as they had made arrangements that saw Crisco supply them with goods that were important for their business, Bolt chose to engage in unfair practices that would threaten the safety of the business conducted by Crisco. As such, it was clear from the company that they were ready to let go the long-term relationship that they had established with Crisco in order to be able to seek similar services elsewhere. Nevertheless, the grounds upon which they were willing to reconsider their relationship were fixative and dependent on Crisco’s ability to grant them a rebate in order to retain their business with Bolt.

Crisco were pushed against the wall and had no alternative than to agree to the terms considering the little time they had be granted top consider the matter and the denied chances for negotiation. Supply arrangements are expected to be organized on fair grounds, whereby the selected supplier qualifies, more than any other bidders on the deal, to be granted the supply deal and that there are no practices of corruption and favoritism that are involved in the process of establishing a supply arrangement (Morrison, Abraham, & Sheargold, 2010). As such, it is clear that Bolt is liable under the ACL for asking Crisco to offer them a rebate in order to secure a supply deal as much as it is liable for ending its arrangement with Crisco unfairly. On the other hand, under the same law, Crisco is also liable for accepting to provide Bolt with a rebate in order to secure their deal with them as it is important for their business. Under the ACL, unfair businesses practices such as rebuttal of established contracts among other legal arrangements on grounds that arte substantiated by law may lead to legal penalties among other consequences. Subsection 2 of section 154 of the ACL provides for penalties for individuals who contravene subsection one of the same section of the law as earlier explained. In cases where the party that contravenes this law is an organization, a penalty of $1,100,000 is imposed, whereas for individuals a penalty of $220,000. Being an organization, if Crisco proceeds to place charges against bolt for asking them to pay a rebate on unfair terms in order to secure the supply deal, the court may find Bolt liable under section 154 subsection 1 of the ACL and impose on them a penalty of $1,100,000.

**References**

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