

Topic 3: Consumer Law

Question 1

In general terms, what are the two (2) objectives of the *Competition and Consumer Act 2010* (Cth) (the Act):

- A) protect consumers and regulate restrictive trading practices in business
- B) protect businesses and regulate unfair practices and conduct of consumers
- C) provide freedom of trade amongst business and competition between consumers
- D) regulate both consumer and business agreements and encourage freedom of trade

ANSWER: A

See Turner et al, *Principles of Australian Commercial Law* (Lawbook Co, 2017) at para(s) [7.10]

Question 2

Which part of the *Competition and Consumer Act 2010* (Cth) contains the “consumer protection” provisions:

- A) Part 1 regulations and statutory guarantees contained as a Schedule to the Act
- B) Australian Consumer Law contained as a Schedule to the Act
- C) Part IV Restrictive Trade Practices contained as a Schedule to the Act
- D) *Australian Securities and Investments Commission Act 2001* contained as a Schedule to the Act

ANSWER: B

See Turner et al, *Principles of Australian Commercial Law* (Lawbook Co, 2017) at para(s) [7.10]

Question 3

Which bodies are responsible for administering the consumer protection laws:

- A) Australian Competition and Consumer Commission (ACCC) and all Australian courts
- B) the ACCC and all state courts
- C) the ACCC, state and territory consumer protection bodies and all Australian courts and tribunals
- D) only the ACCC and Commonwealth courts

ANSWER: C

See Turner et al, *Principles of Australian Commercial Law* (Lawbook Co, 2017) at para(s) [7.20]

Question 4

What is the most litigated and important section of the Australian Consumer Law (ACL) that prohibits “misleading/deceptive conduct” in trade/commerce:

- A) section 20
- B) section 22
- C) section 21
- D) section 18

ANSWER: D

See Turner et al, *Principles of Australian Commercial Law* (Lawbook Co, 2017) at para(s) [7.30]

Question 5

What are some of the penalties imposed for breaches of the “unconscionable conduct” provisions of the Act:

- A) imprisonment and fines
- B) fines and other civil remedies such as damages or injunctions

- C) an apology and a structured settlement
- D) civil remedies such as damages or injunctions but no fines

ANSWER: B

See Turner et al, *Principles of Australian Commercial Law* (Lawbook Co, 2017) at para(s) [7.290]

Question 6

A breach of the “misleading/deceptive” provision of the Act has “strict liability” and this means:

- A) the conduct does not have to be deliberate or intentional
- B) there is no requirement for a contractual relationship
- C) there are no monetary penalties (fines) imposed for breach
- D) the conduct must occur in some trade/commercial activity

ANSWER: A

See Turner et al, *Principles of Australian Commercial Law* (Lawbook Co, 2017) at para(s) [7.30]

Question 7

Which one (1) of the following statements about “misleading/deceptive” conduct is UNTRUE:

- A) The prohibited conduct must occur in trade or commerce
- B) The prohibited conduct must lead/likely mislead a person into error
- C) The prohibited conduct either misled or was likely to mislead consumers
- D) Silence/omissions can never be misleading/deceptive conduct

ANSWER: D

See Turner et al, *Principles of Australian Commercial Law* (Lawbook Co, 2017) at para(s) [7.30], [7.40], [7.50], [7.190]

Question 8

What is the maximum fine (monetary penalty) for breach of the “misleading/deceptive” provision in s 18 of the ACL:

- A) \$1,100,000 for companies and \$220,000 for individuals
- B) \$500,000 for companies and \$100,000 for individuals
- C) There are no fines for breach of s 18
- D) No maximum fine. Court has discretion to impose a “reasonable penalty”

ANSWER: C

See Turner et al, *Principles of Australian Commercial Law* (Lawbook Co, 2017) at para(s) [7.360], [7.460], [7.480]

Question 9

Section 20(1) of the ACL prohibits anyone engaging in unconscionable conduct within the meaning of the “unwritten law”. This means that:

- A) The definition of “unconscionable” is what is currently stated in the courts (eg Amadio’s case)
- B) The definition of “unconscionable” cannot be changed by the courts
- C) It is an unwritten rule that the definition must be made by Parliament in the ACL
- D) The term “unconscionable” is not too broad and not capable of being defined by courts

ANSWER: A

See Turner et al, *Principles of Australian Commercial Law* (Lawbook Co, 2017) at para(s) [7.250]-[7.260]

Question 10

In relation to “unconscionable conduct in connection to supply of goods/services”, what is the purpose of the matters listed in (a)–(l) in s 22 of the ACL:

- A) Any of these matters clearly shows the prohibited conduct
- B) The court must be satisfied that at least two or more matters apply to the case
- C) A judge is limited to examine only these matters as evidence of misconduct
- D) Courts may have regard to any one or more of the matters as evidence of the conduct but are free to consider all circumstances of the case

ANSWER: D

See Turner et al, *Principles of Australian Commercial Law* (Lawbook Co, 2017) at para(s) [7.270]

Question 11

In the case of *McWilliams Wines v McDonalds’s Systems*, why did the court find that the wine makers were not liable for breach of s 18 of the ACL:

- A) McWilliams did not intend to mislead/deceive
- B) McDonalds had not suffered any losses from the breach
- C) Customers were confused but not misled or deceived by the wine maker’s conduct
- D) The wine maker ceased production and withdrew advertisement

ANSWER: C

See Turner et al, *Principles of Australian Commercial Law* (Lawbook Co, 2017) at para(s) [7.70]

Question 12

Section 29 of the ACL also contains provisions to protect consumers against the making of numerous false /misleading representations about goods/services/land. A breach of this section:

- A) Can be criminal and in addition to civil remedies, offenders can be prosecuted and fined
- B) Can be criminal but the offender is subject only to damages/injunctions or other civil remedies
- C) Is a civil offence only and no fines can ever be imposed
- D) Is a civil offence and the offender can be gaoled

ANSWER: A

See Turner et al, *Principles of Australian Commercial Law* (Lawbook Co, 2017) at para(s) [7.360]-[7.460]

Question 13

The ACL provides consumers with various statutory guarantees in relation to “agreements to supply goods and services”. In this context the word “supply”:

- A) is limited to contracts of sales only
- B) includes sales and exchange of goods
- C) includes sales, exchange, lease, hire or hire purchase
- D) applies to contracts and also non-contractual relations

ANSWER: C

See Turner et al, *Principles of Australian Commercial Law* (Lawbook Co, 2017) at para(s) [7.540] & [7.550]

Question 14

Statutory guarantees in the ACL only apply to contracts with consumers. Which one of the following is NOT part of the definition of “consumer” under the Act:

- A) amount payable for goods that are priced \$40,000 or less
- B) goods consisted of a commercial road vehicle
- C) goods normally acquired for personal, household or domestic use
- D) goods must be acquired on credit

ANSWER: D

[See Turner et al, *Principles of Australian Commercial Law* \(Lawbook Co, 2017\) at para\(s\) \[7.560\]](#)

Question 15

Under the ACL a person acquires “services” as a consumer only if:

- A) the services do not exceed \$40,000
- B) if the services are ordinarily for personal, household or domestic purposes
- C) the services are supplied by a licensed provider registered for GST
- D) (a) and (b)

ANSWER: D

[See Turner et al, *Principles of Australian Commercial Law* \(Lawbook Co, 2017\) at para\(s\) \[7.560\]](#)

Question 16

Under the ACL, the statutory guarantees in relation to goods include:

- A) Goods must be of acceptable quality/fit for disclosed purpose/correspond with description/comply with sample
- B) Goods must be of reasonable quality/fit for any purpose/correspond with sample and comply with specifications
- C) Goods must be of a legally recognised quality/fit for designated purposes/correspond with similar goods and comply with Australian standards
- D) The supplier had legal ownership of the goods and the purchaser has sufficient funds to complete the contract

ANSWER: A

[See Turner et al, *Principles of Australian Commercial Law* \(Lawbook Co, 2017\) at para\(s\) \[7.540\]-\[7.630\]](#)

Question 17

Section 60 of the ACL provides for which one of the following guarantees in relation to the supply of “services” to a consumer:

- A) Services will be performed personally by the supplier (cannot delegate)
- B) Services will be rendered with due care and skill
- C) Services will be supplied by fully qualified and licensed suppliers
- D) If the time to render services is not specified in any contract, services will be supplied within a period of not less than 6 months thereafter

ANSWER: B

[See Turner et al, *Principles of Australian Commercial Law* \(Lawbook Co, 2017\) at para\(s\) \[7.670\]](#)

Question 18

The general rule stated in s 60 of the ACL is that guarantees imposed by the Act in relation to supplying “goods or services”:

- A) may be excluded by either party in their contract
- B) cannot be excluded by the supplier
- C) may be excluded if fair and reasonable to do so
- D) cannot be excluded where sale is by auction

ANSWER: B

[See Turner et al, *Principles of Australian Commercial Law* \(Lawbook Co, 2017\) at para\(s\) \[7.670\]](#)

Question 19

The ACL contains provisions that prohibit “unfair terms” in contracts. However these only apply to what types of contracts:

- A) standard form contracts
- B) standard form consumer contracts
- C) all commercial contracts in writing
- D) contracts in excess of \$40,000 in value

ANSWER: B

See Turner et al, *Principles of Australian Commercial Law* (Lawbook Co, 2017) at para(s) [7.300]

Question 20

Where there has been a “minor failure” to comply with a consumer guarantee to supply goods, the ACL allows a consumer to:

- A) reject the goods and claim damages/compensation
- B) recover damages for all foreseeable losses caused by the failure
- C) require the supplier to remedy the failure within a reasonable time or reject goods/recover costs
- D) seek imposition of fines and other civil penalties

ANSWER: C

See Turner et al, *Principles of Australian Commercial Law* (Lawbook Co, 2017) at para(s) [7.690]