

## Chapter 3—Specific protections

### Part 3-1—Unfair practices

#### Division 1—False or misleading representations etc.

#### 29 False or misleading representations about goods or services

- (1) A person must not, in trade or commerce, in connection with the supply or possible supply of goods or services or in connection with the promotion by any means of the supply or use of goods or services:
- (a) make a false or misleading representation that goods are of a particular standard, quality, value, grade, composition, style or model or have had a particular history or particular previous use; or
  - (b) make a false or misleading representation that services are of a particular standard, quality, value or grade; or
  - (c) make a false or misleading representation that goods are new; or
  - (d) make a false or misleading representation that a particular person has agreed to acquire goods or services; or
  - (e) make a false or misleading representation that purports to be a testimonial by any person relating to goods or services; or
  - (f) make a false or misleading representation concerning:
    - (i) a testimonial by any person; or
    - (ii) a representation that purports to be such a testimonial; relating to goods or services; or
  - (g) make a false or misleading representation that goods or services have sponsorship, approval, performance characteristics, accessories, uses or benefits; or
  - (h) make a false or misleading representation that the person making the representation has a sponsorship, approval or affiliation; or

- (i) make a false or misleading representation with respect to the price of goods or services; or
- (j) make a false or misleading representation concerning the availability of facilities for the repair of goods or of spare parts for goods; or
- (k) make a false or misleading representation concerning the place of origin of goods; or
- (l) make a false or misleading representation concerning the need for any goods or services; or
- (m) make a false or misleading representation concerning the existence, exclusion or effect of any condition, warranty, guarantee, right or remedy (including a guarantee under Division 1 of Part 3-2); or
- (n) make a false or misleading representation concerning a requirement to pay for a contractual right that:
  - (i) is wholly or partly equivalent to any condition, warranty, guarantee, right or remedy (including a guarantee under Division 1 of Part 3-2); and
  - (ii) a person has under a law of the Commonwealth, a State or a Territory (other than an unwritten law).

Note 1: A pecuniary penalty may be imposed for a contravention of this subsection.

Note 2: For rules relating to representations as to the country of origin of goods, see Part 5-3.

- (2) For the purposes of applying subsection (1) in relation to a proceeding concerning a representation of a kind referred to in subsection (1)(e) or (f), the representation is taken to be misleading unless evidence is adduced to the contrary.
- (3) To avoid doubt, subsection (2) does not:
  - (a) have the effect that, merely because such evidence to the contrary is adduced, the representation is not misleading; or
  - (b) have the effect of placing on any person an onus of proving that the representation is not misleading.