Commercial Law

PRINCIPLES AND POLICY

Nicholas Ryder
Margaret Griffiths
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CAMBRIDGE

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Preface

The principal objective of this book is to provide a detailed analytical overview of the vast array of areas of commercial law and the policies that lie behind these areas of law. The book is divided into seven parts and has been written with the relevant policies in mind. Part 1 of the book deals with one of the most traditional aspects of commercial law, the law of agency. This part is divided into three chapters and provides a detailed review of the scope of an agent's authority, the obligations owed by a principal to an agent and the Commercial Agency Regulations 1993. The second part of the book deals with another central tenant of the commercial law syllabus, the sale of goods. This is divided into five parts and considers such topics as the historical development and policy underlying the sale of goods, before addressing the integral areas of the implied conditions in the sale of goods, and the passage of title to goods combined with delivery and payment. The last two chapters address the provisions of the supply of goods and services and finally the rise of e-commerce. The third part of the book deals with international trade and sales law. In particular, it concentrates on standard trade terms, the Vienna Convention on the International Sale of Goods, payment in international sales and carriage of goods by sea. Part four looks at tortious liability for defective products, dealing initially with the law of negligence and the rise of product liability and thereafter looking in detail at the provisions of the Consumer Protection Act 1987. The next part of the book consists of three chapters looking at the issue of unfair commercial practices, which has seen a major reform of the previous piecemeal approach towards criminal liability for goods and services. The first chapter looks at the policy underlying the reforms and the role of the European Union in this area. The second chapter considers in detail the provisions of the Consumer Protection from Unfair Trading Regulations 2008, which have adopted a more holistic approach to the entire issue of the liability of traders for goods and services. The final chapter addresses the Business Protection from Misleading Marketing Regulations 2008 and the controls they exercise over misleading and comparative advertising.

As set out above, this book deals with the traditional areas of commercial law, including the law of agency and the sale of goods. However, as there is an artificial divide between consumer law and commercial law, this book also considers other areas that could be viewed as on the periphery of the modern day interpretation of commercial law, namely banking and finance law in Part 6 and consumer credit law in Part 7.

Uniquely, the book provides an interesting overview of the recent policy initiatives introduced by successive British governments that have and will continue to have a fundamental influence on the evolution of commercial law. For example, the British economy has faced almost unprecedented levels of uncertainty since the start of the 'credit crunch' in 2007. The subsequent global banking crisis has necessitated a radical rethink from the government as to its consumer credit and banking strategies. In essence, this resulted in the introduction of, at times, radical legislation aimed at not only protecting consumers and businesses, but also encouraging the growth of the economy. The new consumer protection methods, such as the Consumer Credit Directive, the Consumer Protection from Unfair Trading Regulations 2008, the reforms in sale of goods due to the introduction of the Consumer Rights Directive and the Financial Services Bill (2011), will all have a monumental impact on commercial businesses into the future.

Dr Nicholas Ryder
Professor Margaret Griffiths
Lachmi Singh
August 2011

Abbreviations

AML	anti-money laundering
APR	annual percentage rate
BBA	British Bankers Association
BCCI	Bank of Credit Commerce International
BIS	Bank of International Settlements
BPMM	Business Protection from Misleading Marketing Regulations 2008
CIF	cost, insurance, freight
CISG	UN Convention on Contracts for the International Sale of Goods
CMI	Comité Maritime International
CPMA	Consumer Protection and Markets Authority
CPUT	Consumer Protection from Unfair Trading Regulations 2008
CTF	counter-terrorist financing
DBERR	Department for Business, Enterprise and Regulatory Reform
DBIS	Department for Business, Innovation and Skills
DTI	Department of Trade and Industry
DWP	Department of Work and Pensions
EBA	European Banking Authority
ECHR	European Convention on Human Rights
ECJ	European Court of Justice
EEA	European Economic Area
EMP	Energy Markets Participants
ERL	expected readiness to load
EU	European Union
FAS	free alongside ship
FATF	Financial Action Task Force
FOB	free on board
FOS	Financial Ombudsman Service
FPC	Financial Policy Committee
FSA	Financial Services Authority
FSC	Financial Stability Committee
FSCS	Financial Services Compensation Scheme
FSF	Financial Stability Forum

FSMA	Financial Services and Markets Act 2000
GDP	gross domestic product
IBRD	International Bank for Reconstruction and Development
ICC	International Chamber of Commerce
ICSID	International Centre for the Settlement of Investment Disputes
IDA	International Development Association
IFC	International Finance Corporation
IMF	International Monetary Fund
IOSC	International Organisation of Securities Commission
MIB	Marketing of Investments Board
MIGA	Multilateral Investment Guarantee Agency
MLRO	Money Laundering Reporting Officer
MPC	Monetary Policy Committee
NACAB	National Association of Citizens Advice Bureau
NCA	National Crime Agency
OFT	Office of Fair Trading
PRA	Prudential Regulation Authority
PSC	point of single contact
RPB	recognised professional body
SEU	Social Exclusion Unit
SFO	Serious Fraud Office
SIB	Securities and Investments Board
SRO	self-regulating organisation
UCP	Uniform Customs and Practice of Documentary Credits
UCTA	Unfair Contract Terms Act 1977
UN	United Nations
UNCITRAL	UN Commission on International Trade Law
UNCTAD	UN Conference on Trade and Development
UNIDROIT	International Institute for the Unification of Private Law
URC	Uniform Rules for Collections

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