



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Mr. Stephen F. Ruffino

Discussion

After considering the plain language of the Act and the purposes of the statute, it is the staff's opinion that the service warranty you describe would not be a "written warranty" under the Act.

First, the plain language of the Act provides that a "written warranty" must be part of the basis of the bargain and must be made "in connection with the sale" of a consumer product. 15 U.S.C. § 2301(6). Your client's "service warranty," however, is provided to consumers *after* they have purchased the consumer product and therefore forms no part of the basis of the bargain.

Second, the purposes of the Act would not be furthered by a determination that your client's service warranty is a written warranty under the Act. In passing the Act, it was Congress's intent that consumers receive clear and complete information about warranty coverage prior to sale; that consumers understand fully what to expect in the event of a consumer product failure or malfunction; and that manufacturers compete on the basis of warranty coverage. 15 U.S.C. § 2302(a). It is the staff's opinion that these purposes have little application in the context of your client's service warranty.

You indicate in your letter that your client's Full Two-Year Warranty fully complies with the Act. Accordingly, consumers have presumably received complete information about warranty coverage prior to sale and understand what to expect in the event of product failure or malfunction. Therefore, the first two purposes of the Act are served by the provision of the Full Two-Year Warranty. A determination that your client's service warranty is a written warranty

³ Moreover, the staff's conclusion that your client's service warranty is not a written warranty is not altered by 16 C.F.R. § 700.1(h), which addresses warranties on replacement parts. Specifically, Rule 700.1(h) provides that "warranties on replacement parts and components used to repair consumer products are covered; warranties on services are not." Rule 700.1(h) is intended to address "aftermarket" replacement products that are purchased by consumers, and merely indicates that where a written warranty covers *both* parts and services, it is covered by the Act. See Curtis R. Reitz, *Consumer Product Warranties Under Federal and State Laws* § 13.06 (2d ed. 1987). This provision, however, does not impact the meaning of a "written warranty" under the Act, nor does it alter the "basis of the bargain" test.

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Conclusion

Based on the plain text of the Act, which requires that a “written warranty” form part of the basis of the bargain of the original sale, and because designating your client’s service warranty a “written warranty” would do little to advance the purposes of the Act, it is the staff’s opinion that the service warranty you describe would not be a written warranty under the Act.

The opinions and conclusions expressed in the foregoing discussion are those of Commission staff only and are not attributable to, nor binding on, the Commission itself or any individual Commissioner. I hope this discussion is helpful to you. If you have any further questions, please do not hesitate to contact me at (202) 326-2505.

Sincerely,

Allyson Himelfarb
Investigator/Magnuson-Moss
Program Coordinator