

Commercial Transactions Exam Marking March 2014

SECTION A QUESTION 1

Some brave students attempted this question based on an understanding of VIS Moot 21. A couple of answers were superb. However, it was clear that other students read only the Moot 21 materials and did not seem familiar with the articles of CISG.

PART A QUESTION 2

Nearly all students attempted this question about the product liability of a restaurant for virus infected prawns served as part of a meal. Students displayed a good understanding of the basis for potential liability of both supplier and manufacturer, including the threshold requirements for a business to consumer sale of goods and/or services, but poorer appreciation of remedies and likely compensation awarded.

There was some confusion and blurring between actions pursuant to ACL 54 and ACL 138. Incorrect application of Vienna Convention.

PART A QUESTION 3

A great many students attempted this Q in which contract, bailment/licence and detinue/conversion were relevant. Few answered it well. Many students mistakenly covered PPSA issues only. Most of these students were confusing the position of BT with Mr. B's position.

SECTION B QUESTION 4

About a third of students attempted this question about PPSA interests and liens and priorities of different interests, and most answers were adequate to good. Few students appreciated the relevance of whether the parking contract was one of bailment or licence.

SECTION B QUESTION 5

Nearly all students attempted this question concerning Insurance-non-disclosure and misrepresentation. A general appreciation of the relevant ICA sections was widespread. A detailed appreciation of relevant sub-sections, and commitment and clarity in the advice to Clearcut were demonstrated by far fewer students. There was some misapplication of ss. 54 and 56. A few students applied the common law of misrepresentation, despite showing an understanding of the sections that modified it in their answer, thereby showing logical inconsistency in their reasoning and/or a failure to distinguish the pre ICA cases. A few students wasted time and space by repeating the facts of the question.

SECTION B QUESTION 6

Almost all students answered this question showing a preference for description rather than analysis.