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Warranties

When you buy something, you expect it will work. You also expect it will last for some period of time. A warranty is the seller's legal promise or guarantee about the quality of the goods. There are two kinds of warranties: implied (or statutory) and express (or contractual).

What is an implied warranty?

An implied warranty is one required by law. Almost every purchase you make from a merchant is covered by an implied warranty. This means that if you buy something from a merchant, you can assume it has certain warranties. These warranties are implied because they don't have to be spoken or written down by anyone. However, as you will see, you can give up (or waive) your implied warranties. There are two important implied warranties. One is the warranty of merchantability. The other is the warranty of fitness for a purpose.

What is the warranty of merchantability?

This means the seller promises the product will do what it is supposed to do. For example, a car will run, or a toaster will toast. The warranty applies to used goods as well as new goods. It means the goods are fit to be sold, and are fit for the usual purpose for which such goods are sold. The goods must be as described on the package or label. It also means the goods are of fair or average quality.

This warranty exists whether or not the seller says it or puts it in writing, unless you give up this warranty. There is no set length of time for how long this warranty lasts. However, it can't last longer than four years.

What is the warranty of fitness for a purpose?

This applies when you buy a product on the seller's advice it is suitable for a specific use. For example, a seller who suggests you buy a certain sleeping bag for zero degree weather warrants the sleeping bag will be suitable for zero degrees. If the seller knows that the goods are to be used for a particular purpose, there is warranty the goods are fit for that purpose. This is especially true if you are relying on the seller's knowledge in selecting the goods.

If you do rely on the seller's knowledge, this warranty exists whether or not the seller puts it in writing. There is no set length of time for how long this warranty lasts. However, it can't last longer than four years.

Can I give up implied warranties?

You can give up your implied warranties. If a seller wants you to give up your implied warranties, the seller must clearly say so in writing. This writing must be conspicuous. This means it must readily attract notice. In this case, the product is sold “as is.” An “as is - no warranty” sale means exactly what it says. You accept the product in the condition in which it exists at the time of sale. The seller has no duty to fix the product or to take it back after the sale. This is true even if the product breaks down right after the sale is complete. An “as is - no warranty” sale is “buyer beware.”

What if I do not give up implied warranties?

If you don't give up implied warranties, you get the implied warranty of merchantability. You also may get the implied warranty of fitness for a purpose if you relied on the seller's knowledge.

What is an express warranty?

An express warranty is a specific promise made to you by the seller, in addition to the implied warranties. If the seller gives you any written warranty, you also get the implied warranty of merchantability. When you get a warranty in writing, you should make sure you understand what it means. If a warranty does not state exactly what the seller will and will not do when the product fails to work, it's not much of a warranty. Here are some questions to keep in mind when comparing warranties.

- What parts and repair problems are covered by the warranty?
- Are any expenses not covered by the warranty?
- How long does the warranty last?
- Does the warranty pay for any damage the product caused, or your time and expense in getting the damage repaired? (These are called “consequential damages.”)
- Are there conditions or limits on the warranty?
- Who do you contact to get warranty service?
- What will you have to do to get repairs?
- What will the seller do if the product fails – repair it, replace it, or return your money?

Can an express warranty be spoken or oral?

An oral promise can be an express warranty. You have a legal right to get what the seller promises, but you should beware. If there is an oral warranty and a written warranty, the oral warranty doesn't count. You get only the written warranty. If you are given an oral warranty, and also are given a writing that says there are no warranties, again the oral warranty doesn't count. Due to this, you should insist that any oral warranty be put in writing. If the seller won't do this, then the warranty probably is no good.

What type of express warranties are there?

There are two types of express warranties. A full warranty means a faulty product will be fixed or replaced free. A full warranty does not have to cover the whole product. It may only cover part of the product, such as the picture tube of a TV. A full warranty means these things.

- Warranty service is free.
- If the product can't be fixed after a reasonable number of times, you may get a replacement or refund.

A limited or partial warranty means you will have to pay something to fix or replace a faulty product. A limited warranty must tell you the following things.

- The portion of the repair costs for parts that the seller will pay.
- The portion of the repair costs for labor that the seller will pay.
- The parts of the product that are covered.
- The time limit for each covered part.
- Whether there is a deductible, and if so, how much.

Sometimes in a product with more than one part, some parts will be under full warranty. Others will be under limited warranty. Like other contracts, you should read warranties carefully. Full warranties are the exception rather than the rule.

What should I do to avoid warranty problems?

To lessen the chance of a problem with your warranty, here are some things you can do.

- Be careful about the person or firm offering the warranty. A warranty is only as good as the company that offers it.
- Read the warranty before you buy. See exactly what protection the warranty gives you.
- Save the sales slip and file it with the warranty.
- Do any maintenance or inspections required by the warranty.
- Use the product according to instructions. Abuse or misuse of the product may cancel your warranty.

How should I handle a warranty problem?

If you have problems with a product or with getting the promised warranty service, here are some steps you can take. Read your product instructions and warranty carefully. Don't expect qualities or functions the product wasn't designed to give. Don't expect warranty coverage that wasn't promised. A warranty doesn't mean you automatically get a replacement or refund if the product is faulty. The company may be allowed to try to fix it first. If you report a defect to the company during the warranty period and the product was not fixed properly, the company must correct the problem even if your warranty has run out.

Discuss your complaint in person with the seller, and be prepared. Take copies all the papers you got when you made the purchase. Talk with a sales person or customer service person, explain the problem, and say what action you would like taken. If the sales person or customer service person is not helpful, ask to speak with a supervisor, manager, or higher person in authority, and repeat your complaint.

If you can't reach an agreement, write the manufacturer. Your warranty should list the company's mailing address. Copy your letter and save it. You may want to send your letter by certified mail, return receipt requested. Save the certified mail receipt and the green return receipt. For additional advice, see brochure on "Effective Consumer Complaints."