



ROGER WILLIAMS UNIVERSITY
RALPH R. PAPITTO
SCHOOL OF LAW



David A. Rice
Professor of Law

September 9, 2000

Donald S. Clark, Secretary
Federal Trade Commission
600 Pennsylvania Avenue
Washington, DC 20580

Subject: High-Tech Warranty Project
FTC File No. P994413

Comments of David A. Rice – Support of NetAction Comments; Forum Suggestions

My letter concerns the request for public comments published in the May 14, 2000 issue of the Federal Register and also responds to an individual invitation from FTC Staff to submit comments.

Rather than prepare extensive individual Comments, I agreed to prepare Comments being filed by a not-for-profit public interest organization, NetAction. The Comments are subscribed by two additional not-for-profit public interest organizations, Computer Professionals for Social Responsibility and CompuMentor, whose members have substantial concern and interest in the High-Tech Warranty Project.

First, I fully subscribe to the NetAction Comments. Working as counsel to prepare the Comments drew upon a full range of my experience, scholarship and related professional activity in commercial contract, consumer and intellectual property law. This includes substantial work in consumer protection law beginning in the late 1960s and computer information contract law beginning in the mid-1980-s and continuing to date. Until The American Law Institute withdrew as co-sponsor of the project which produced the Uniform Computer Information Transactions Act, I served as one the three ALI representatives on the Drafting Committee for what initially was a proposed Article 2B of the Uniform Commercial Code.

I unqualifiedly adopt and support by this letter the Comments filed by NetAction. I further urge that the Commission include representatives of organizations like NetAction in the Public Forum.

Second, I write to recommend individual academics as potentially valuable Public Forum participants.

- Professor Jean Braucher, University of Arizona, a highly respected contract and consumer law scholar who has been an active, critical and insightful commentator and critic within the ALI and in her scholarship dealing UCC 2B/UCITA and certain revision proposals for UCC Articles 2 and 2A.
- Professor Donald Clifford, Jr. of the University of North Carolina as a warranty law expert who has been actively engaged in the UCC Article 2 Revision process, studied retailer compliance with the

Magnuson-Moss pre-sale information availability requirements, and written on warranty law inclusive of state statutes distinct from UCC Articles 2 and 2A.

- Professor Richard Craswell of Stanford University, a prominent former FTC Staff member who is thoroughly conversant with the jurisdiction and jurisprudence of the Commission and a leading contract law scholar.
- Professor Maureen O'Rourke of Boston University has emerged as a scholar who brings knowledge and thoughtfulness to bear at the intersection of commercial contract and intellectual property law.
- Professor Edward Rubin of the University of Pennsylvania. His most recent article, *Types of Contracts, Interventions of Law*, and his many thoughtful works on consumer contract terms disclosure, commercial law and contract law theory all bear upon the issues at hand.

Importantly, each has approached the subject matter in a different way and difference of view -- sometimes strong -- characterizes the group.

In addition, I urge invitation of either John Burke or Maureen Garde, New Jersey Law Revision Commission staff attorneys. Mr. Burke has been closely engaged for some time with a proposed statute dealing generally with standard form contracts and recently published a law journal paper on the subject. Ms. Garde, I believe, has been more extensively involved with proposed electronic commerce statutes, including UCITA. Underlying my recommendation is recognition that the New Jersey agency is unusual and visible -- though not unique -- in its initiation of professional staff study of, and Commission members' active discussion and deliberation on, such topics.

Respectfully,

A handwritten signature in cursive script that reads "David A. Rice". The signature is written in dark ink and is positioned to the right of the typed name.

David A. Rice
Professor of Law