

## Chapter 9

***Bob is selling radios for £3 at a street market. He shouts out 'these are the best radios in the world!'. Cythia, who is a touch naive, hears this and believes him and buys ones. Has Bob committed fraud?***

Presumably it turns out that the radio is not the best in the world. One issue here is whether there is a false statement. Although that might be thought obvious, the defence could argue that statements must be understood in their context. Things shouted out in market stalls should not be regarded as statements of fact. People at markets realize that comments made are often jokey exaggerations and not intended to be taken seriously. Even if it is found that the statement is untrue there remains the question of whether Bob makes the statement intending to make a gain 'by making the representation'. He might not believe that his statements will cause anyone to buy the products because no one will take him seriously. If that is true, then he would appear to have a defence. A final issue would be whether or not there is dishonesty in this context.

***Abby wants to sell her worn out sofa on e-bay. She takes a digital photograph of it, which she touches up to make the sofa look better than it is. On the website she says that it is 'priceless sofa' and that she will not accept any offers less than £1000. In fact the sofa is worth less than £80. Carlos, who is impressed by the photograph and the price tag assumes the sofa must be of very high quality and as he likes the colour bids £1000. Abby accepts, but has she committed fraud?***

One issue here is whether a price tag can be taken as an implied representation as to quality. When Abby suggests £1000 is there an implied statement that the item is worth that much? It is extremely unlikely the courts will accept such an argument except in special circumstances (e.g. where there is a special relationship of trust between the seller and the buyer, see *Silverman*). Certainly it is unlikely that an E-bay user will be taken to represent that the price suggested is a reasonable one, unless they make some specific statement to that effect. As to the statement that the sofa is described as priceless it is likely that that such a statement will be found to be devoid of meaning and so not capable of being a deception. The touching up of the photograph is a stronger case for the prosecution. Her advertisement will probably be taken to contain the representation that the picture is of the sofa. Abby may try and argue that photographs on E-bay are not generally regarded as reliable and so no representation can be taken from that, although she may have difficulties with such an argument. There remains the claim that there is no dishonesty.