

In the Court of Appeal (Civil Division)

Eric Pollard (Appellant)

-v-

Viv Windsor (Respondent)

Viv has just bought “The Village Shop” and, anxious to please the locals, decides to put an advertisement in the local paper stating that she will sell boxes of luxury chocolate shortbread at a discount price of £2.50, instead of the recommended retail price of £5.00. It also states that there are only 50 boxes available. Viv has recently bought a computer from her son, Scott, to help her with the running of the shop. The advertisement states that anyone wanting the shortbread should contact Viv in person at the shop or E-mail her at Viv@villageshop.co.uk.

The advertisement appears in the local paper on Saturday.

Eric sees the advertisement at 4.30pm on the Saturday afternoon and immediately sends an E-mail to Viv ordering six boxes of the Shortbread. The E-mail is received on Viv’s machine at 5.09pm on the Saturday.

On Saturday evening Viv realises that the discount was too generous as she is making no money on the shortbread and people are not coming to the shop and buying lots of other groceries as she had hoped. She phones the local paper asking them to put notice in the next day informing people that the discount price is no longer available. The Sunday paper is published at 9am on Sunday morning and it is delivered to Eric at 10.30am.

Viv opens for business at 10.00am on the Sunday. She reads Eric's E-mail at 10.35am, but refuses to sell him the shortbread. She replies stating that the discount is no longer available.

Eric sued Viv for breach of contract but at first instance the judge found for Viv on the following basis:

- (A) There was no contact between Viv and Eric since the notice in the paper was not an offer but invitation to treat; and
- (B) Even if the notice did amount to an offer it was withdrawn before acceptance applying the principle enunciated in *Entores Ltd v Miles Far East Corporation* [1955] 2 QB 327.

This problem is taken from the second round of the ESU-Lovell White Durrant Mooting Competition 1999-2000, and was provided courtesy of the English Speaking Union.