

TRADE PRACTICES ACT 1974

AND

COMPETITION AND CONSUMER ACT 2010

Undertaking to the Australian Competition and Consumer Commission given for
the purposes of section 87B

by

Citymove Pty Ltd ACN 109 359 800

Persons giving this undertaking

- (1) This undertaking is given to the Australian Competition and Consumer Commission (**the ACCC**) by Citymove Pty Ltd (109 359 800) (**Citymove**) of Unit C, 1 Sydney Steel Road, Marrickville, New South Wales, for the purposes of:
 - (a) section 87B of the *Trade Practices Act 1974 (TPA)*, as applied by Item 6 of Schedule 7 of the *Trade Practices Amendment (Australian Consumer Law) Act (No.2) 2010*, for conduct prior to 1 January 2011; and
 - (b) section 87B of the *Competition and Consumer Act 2010 (CCA)*, for conduct from 1 January 2011.

Background

- (2) Citymove is incorporated under the *Corporations Act 2001* and is registered in New South Wales.
- (3) On or about 21 November 2010, Citymove registered the domain name movingreview.com.au.
- (4) Between about 21 November 2010 and 21 February 2011, contractors engaged by Citymove:
 - (a) copied genuine consumer testimonials from an unrelated customer review website (www.productreview.com.au) and modified:
 - (i) the username of the consumers;
 - (ii) the star ratings assigned by the original consumers; and
 - (iii) the removalist companies to which the testimonials related; and
 - (b) posted the modified reviews on a website hosted at movingreview.com.au which:
 - (i) was then being constructed for Citymove; and
 - (ii) purported to contain “authentic removal companies reviews”.

- (5) Citymove did not implement or cause to be implemented procedures to ensure the accuracy of the website content.
- (6) Citymove caused the modified reviews to be accessible to the public in the knowledge that errors existed on the website.
- (7) The ACCC considers that by engaging in the conduct described in paragraphs (3) to (6) above, Citymove:
- (a) has, in trade or commerce, in connection with the promotion of the supply of services, made false or misleading representations that purport to be testimonials by persons relating to services, in contravention of:
 - (i) section 52 of the TPA, to the extent that the conduct occurred prior to 1 January 2011; and
 - (ii) sections 18 and 29(1)(e) of the *Australian Consumer Law (ACL)*, consisting of Schedule 2 to the CCA, to the extent that the conduct occurred on or after 1 January 2011;

because:

- (b) on the website registered by Citymove and hosted at www.movingreview.com.au, Citymove made representations that purported to be testimonials prepared by genuine consumers when they were not.
- (8) The ACCC considers that by engaging in the conduct described in paragraphs (3) to (6) above, Citymove:
- (a) has, in trade or commerce, in connection with the promotion of the supply of services, made false or misleading representations concerning testimonials by persons or representations that purport to be such testimonials relating to services, in contravention of:
 - (i) section 52 of the TPA, to the extent that the conduct occurred prior to 1 January 2011; and
 - (ii) sections 18 and 29(1)(f) of the ACL, to the extent that the conduct occurred on or after 1 January 2011;

because:

- (b) on the website registered by Citymove and hosted at www.movingreview.com.au, which was accessible to the public and which displayed a statement to the effect that it contained “authentic removal companies reviews”, Citymove made a representation that the testimonials appearing on that website were prepared by genuine consumers when they were not.
- (9) Citymove confirms that the conduct described in paragraphs (3) to (6) has ceased.
- (10) Citymove admits that the conduct described at paragraphs (3) to (6) above contravened:

- (a) the TPA, to the extent that the conduct occurred prior to 1 January 2011; and
- (b) the ACL, to the extent that the conduct occurred on or after 1 January 2011.

Commencement of undertaking

(11) This undertaking comes into effect when:

- (a) the undertaking is executed by Citymove; and
- (b) the ACCC accepts the undertaking so executed.

(12) Upon the commencement of this undertaking, Citymove undertakes to assume the obligations set out in paragraph (13) below.

Undertakings

(13) Citymove undertakes for the purposes of section 87B of the TPA and section 87B of the CCA:

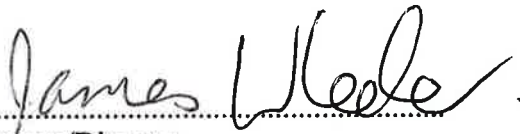
- (a) that it will not, and will ensure that its subsidiaries will not, in trade or commerce:
 - (i) make false or misleading representations that purport to be testimonials by any person relating to removalist services; or
 - (ii) make false or misleading representations concerning testimonials of persons, or representations that purport to be such testimonials, that relate to removalist services; and
- (b) that it will:
 - (i) establish and implement a Trade Practices Compliance Program (**Compliance Program**) in accordance with the requirements set out in “**Annexure A**”, being a program designed to minimise Citymove’s risk of future breaches of Parts 2-1 and 3-1 of the ACL and to ensure its awareness of the responsibilities and obligations in relation to the requirements of Parts 2-1 and 3-1 of the ACL within 3 months of the date of this Undertaking coming into effect;
 - (ii) maintain and continue to implement the Compliance Program for a period of 1 year from the date of this Undertaking coming into effect; and
 - (iii) provide, at its own expense, a copy of any documents required by the ACCC in accordance with **Annexure A**.

Acknowledgments

(14) Citymove acknowledges that:

- (a) the ACCC will make this Undertaking publicly available including by publishing it on the ACCC's public register of s. 87B undertakings on its website;
- (b) the ACCC will, from time to time, make public reference to the Undertaking including in news media statements and in ACCC publications; and
- (c) this Undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

EXECUTED by CITYMOVE PTY LTD (ACN 109 359 800)
pursuant to section 127(1) of the *Corporations Act 2001*.


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Secretary/Director
This 6.....day of September 2011

**ACCEPTED BY THE AUSTRALIAN COMPETITION AND CONSUMER
COMMISSION PURSUANT TO:**

- (a) **SECTION 87B OF THE *TRADE PRACTICES ACT 1974* AS APPLIED BY ITEM 6 OF SCHEDULE 7 OF THE *TRADE PRACTICES AMENDMENT (AUSTRALIAN CONSUMER LAW) ACT (NO.2) 2010*, FOR CONDUCT PRIOR TO 1 JANUARY 2011; AND**
- (b) **SECTION 87B OF THE *COMPETITION AND CONSUMER ACT 2010*, FOR CONDUCT FROM 1 JANUARY 2011.**


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Rodney Graham Sims
Chairman

This 27th.....day of September 2011

Annexure A

TRADE PRACTICES COMPLIANCE PROGRAM

LEVEL 1

Citymove Pty Ltd will establish a Trade Practices Compliance Program (**Compliance Program**) that complies with each of the following requirements:

1. Training

- 1.1. Within 3 months of this Undertaking coming into effect, Mr Wheeler and all directors of Citymove Pty Ltd will attend practical training focusing on Parts 2-1 and 3-1 of the Australian Consumer Law, comprising Schedule 2 to the Competition and Consumer Act 2010.
- 1.2. The training referred to in paragraph 1.1 above will be administered by a suitably qualified, compliance professional or legal practitioner with expertise in trade practices law.
- 1.3. A written statement or certificate from the trade practices professional who conducts the training referred to in paragraph 1.1 above will be provided to the Australian Competition and Consumer Commission (ACCC) within 14 days of completion of the training verifying that such training has occurred.

2. Complaints handling

2.1. Citymove Pty Ltd will:

- 2.1.1. develop procedures for recording, storing and responding to trade practices complaints within two months of this Undertaking coming into effect; and
 - 2.1.2. provide the ACCC with an outline of the complaint handling system developed within two months of the Undertaking coming into effect.
3. If requested by the ACCC, Citymove Pty Ltd will provide, at its own expense, copies of any other documents or information in respect of matters which are the subject of the Compliance Program.