

COMPETITION AND CONSUMER ACT 2010

Undertaking to the Australian Competition and Consumer Commission

given for the purposes of section 87B

by

Samsung Electronics Australia Pty Ltd

ACN 002 915 648

Persons giving this undertaking

- 1 This Undertaking is given to the Australian Competition and Consumer Commission (ACCC) by Samsung Electronics Australia Pty Ltd ACN 002 915 648 (**Samsung**) of 8 Parkview Drive, Homebush Bay NSW 2127, for the purposes of section 87B of the *Competition and Consumer Act 2010 (Act)*.
- 2 Samsung is incorporated under the *Corporations Act 2001 (Cth)* and registered in New South Wales. Samsung is the subsidiary of the Korean manufacturing company, Samsung Electronics Co., Ltd. and carries on business in Australia as an importer and wholesaler of household electrical appliances.

Background

- 3 In October 2010, Samsung launched a new washing machine model in a 7.5kg and 8.5kg variant (model numbers WF0754W7V and WF0854W8E respectively branded as Bubble Wash washing machines) (**Samsung Washing Machine**).
- 4 The advertising campaign in relation to the Samsung Washing Machine ran from October 2010 to October 2011 and was comprised of:
 - (a) point of sale material, including 10,000 A5 product brochures and a demonstration kit incorporating a promotional video which was present at approximately 90 stores and was displayed from about March 2011 to October 2011;
 - (b) brochures at the Better Homes & Gardens LIVE trade show on 15 October 2010 which were distributed to consumers during the event;
 - (c) two print advertisements in the Better Homes and Gardens magazine on 13 October 2010 and 10 November 2010;
 - (d) television commercials for national metro and regional circulation on Channel 7 and Channel 9 in the weeks commencing 3 October 2010, 17 October 2010 and 1 May 2011 and between 22 May 2011 and 12 June 2011; and

- (e) a website media release on 26 May 2010 with a subsequent release on 6 October 2011 which remained until the end of the campaign.
- 5 The advertising campaign as a whole conveyed the following linked representations:
- (a) the Samsung Washing Machine allows users to achieve washing results in cold water that are equivalent to washing results achieved when using warm water; and
 - (b) users can therefore obtain energy savings of up to 60% by washing with cold water instead of warm water while achieving similar washing results.
- 6 The ACCC has conducted an investigation into the representations made in the advertising campaign and whether aspects of that campaign, namely the in-store demonstration kit incorporating a promotional video, were potentially misleading to consumers pursuant to sections 18 and 29(1)(g) of the *Australian Consumer Law*.
- 7 The ACCC's concerns relate solely to the representations made by Samsung in the in-store demonstration kit incorporating a promotional video.

The concerns

- 8 The ACCC considers that the in-store demonstration kit and incorporated promotional video:
- (a) lacked the detail of the linked representations that were made throughout the rest of the advertising campaign; and
 - (b) made comparative energy savings representations between the Samsung Washing Machine and a "conventional" washing machine to the effect that the Samsung Washing Machine offers significant energy savings over a "conventional" washing machine, when that is not the case.
- 9 Accordingly, the ACCC is concerned that the comparative energy savings representations made in the demonstration kit and incorporated promotional video were likely to mislead consumers.
- 10 Samsung has cooperated with the ACCC's investigation and wishes to address the concerns outlined in paragraph 9 above by offering this Undertaking in accordance with section 87B of the Act.

Commencement of Undertaking

- 11 This Undertaking comes into effect when:
- (a) the Undertaking is executed by Samsung; and
 - (b) the ACCC accepts the Undertaking so executed.
- 12 Upon the commencement of this Undertaking, Samsung undertakes to assume the obligations set out in paragraph 13 below.

Undertaking

- 13 Samsung undertakes for the purposes of section 87B of the Act that it will:
- (a) offer an extension of the manufacturer's warranty from 2 years to 5 years for the customers of the Samsung Washing Machine who purchased the product from the stores that displayed the demonstration kit and promotional video during the period from 1 March 2011 to 31 October 2011;
 - (b) send a letter to each of the customers referred to at undertaking (a) above (where it is possible to identify them) in the terms of **Annexure A** by no later than 31 January 2013;
 - (c) place a notification on its website in the terms of **Annexure B** by no later than 31 January 2013 with the notification to remain on its website for a period of at least three months; and
 - (d) conduct and implement a review and enhancement of Samsung's trade practices compliance program with particular reference to the conduct outlined in paragraph 9 above.

Acknowledgements

- 14 Samsung acknowledges that:
- 14.1 the ACCC will make this Undertaking publicly available including by publishing it on the ACCC's public register of section 87B undertakings on its website; and
 - 14.2 the ACCC will, from time to time, make public reference to this Undertaking including in news media statements and in ACCC publications.

Executed by

Samsung Electronics Australia Pty Ltd (ACN 002 915 648) by its authorized representative.



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Name: *Jaeho Lee*

Title: *Finance Director*

This*9.th*.....day of *January*...2013

**ACCEPTED BY THE AUSTRALIAN COMPETITION AND CONSUMER
COMMISSION PURSUANT TO SECTION 87B OF THE *COMPETITION AND
CONSUMER ACT 2010.***



.....

Rodney Graham Sims

Chairman

This*Seventeenth*.....day of *January*.....2013

ANNEXURE A

Letter to Samsung customers

[SAMSUNG LETTERHEAD]

Dear Samsung Customer

Samsung Electronics Australia Pty Ltd (**Samsung Australia**) has given an undertaking to the Australian Competition and Consumer Commission (**ACCC**) under section 87B of the Competition and Consumer Act 2010 following the ACCC's investigation of an advertising and marketing campaign for two Samsung washing machine models (7.5kg and 8.5kg variants, model numbers WF0754W7V and WF0854W8E, branded as "Bubble Wash washing machines") that took place between October 2010 and October 2011.

While the advertising campaign was conducted in newspapers, magazines, television commercials, on-line and point of sale, the ACCC's concerns related solely to some representations made in an in-store demonstration kit and promotional video which was displayed in certain stores selling the washing machines. The ACCC was concerned that the comparative energy savings representations made in the demonstration kit and incorporated promotional video were likely to have been misleading in that Samsung represented that its washing machine when using cold water offered significant energy savings over conventional washing machines using cold water, when this was not the case.

In accordance with the undertaking, Samsung Australia is offering any customer who purchased a Samsung washing machine model number WF0754W7V or WF0854W8E from one of the stores listed in the attachment to this letter, during the period from 1 March 2011 to 31 October 2011, an extension of the manufacturer's warranty from 2 years to 5 years.

If you believe you may be a customer entitled to this extended manufacturer's warranty please contact our Customer Contact Center on 1300 362 603.

Yours sincerely

Attachment to Annexure A – List of Stores

ACT

Harvey Norman Fyshwick
Harvey Norman Woden
The Good Guys Belconnen
The Good Guys Tuggeranong

NSW

Bing Lee Bankstown
Bing Lee Carlingford
Bing Lee Moore Park
Bing Lee Old Guildford
Bing Lee Rhodes
Harvey Norman Alexandria
Harvey Norman Auburn
Harvey Norman Caringbah
Harvey Norman Castle Hill
Harvey Norman Maitland
Harvey Norman Penrith
Harvey Norman Warrawong
Joyce Mayne Bennetts Green
The Good Guys Alexandria
The Good Guys Auburn
The Good Guys Blacktown
The Good Guys Campbelltown
The Good Guys Casula
The Good Guys Coffs Harbour
The Good Guys Warners Bay
The Good Guys Warrawong

NT

Harvey Norman Darwin

QLD

Clive Peeters Macgregor
Harvey Norman Toowoomba
Harvey Norman Carindale
Harvey Norman Cairns
Harvey Norman Bundall
Harvey Norman Townsville
Retravisision Beerwah
Retravisision Kingaroy
Retravisision Cairns (Trading As Sydney H Turner Appliances)
Retravisision-Carolans Nambour
Retravisision-Webbers North Rockhampton
The Good Guys Browns Plains
The Good Guys Cairns
The Good Guys Capalaba
The Good Guys Helensvale
The Good Guys Mackay
The Good Guys Loganholme
The Good Guys Morayfield
The Good Guys Townsville

SA

Harvey Norman Marion
Harvey Norman Munno Para
Harvey Norman Electric Noarlunga
Peters The Good Guys Noarlunga
Radio Rentals Prospect
The Good Guys Edwardstown
The Good Guys Mile End (Brooks Muir's)
The Good Guys Gepps Cross
The Good Guys Hectorville

TAS

Clive Peeters Moonah
Coogans Moonah
Coogans Hobart
Harvey Norman Burnie
Harvey Norman Launceston
Harvey Norman Devonport
Harvey Norman Cambridge Park
Harvey Norman Hobart
Harvey Norman Launceston
Robert Ferguson Launceston

VIC

Clive Peeters Victoria
Harvey Norman Chadstone
Harvey Norman Dandenong
Harvey Norman Maribyrnong
Harvey Norman Moorabbin
Harvey Norman Preston
Harvey Norman Jessup (trading as QVH Melbourne)
The Good Guys Thomastown
The Good Guys Moorabbin
The Good Guys Frankston
The Good Guys Hoppers Crossing
The Good Guys Bayswater
Retravisision Maribyrnong
Retravisision Chimside Park
Retravisision Geelong (Elsworthy's)

WA

Harvey Norman City West
Harvey Norman Joondalup
Harvey Norman Mandurah
Harvey Norman Mandurah Karratha St
Rick Hart Joondalup
The Good Guys Midland
The Good Guys Osborne Park
The Good Guys Rockingham
The Good Guys Cockburn
The Good Guys O'Connor

[Linked list of stores from full notification text]

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Harvey Norman Woden
The Good Guys Belconnen
The Good Guys Tuggeranong

NSW

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Bing Lee Carlingford
Bing Lee Moore Park
Bing Lee Old Guildford
Bing Lee Rhodes
Harvey Norman Alexandria
Harvey Norman Auburn
Harvey Norman Caringbah
Harvey Norman Castle Hill
Harvey Norman Maitland
Harvey Norman Penrith
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The Good Guys Auburn
The Good Guys Blacktown
The Good Guys Campbelltown
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The Good Guys Warners Bay
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The Good Guys Capalaba
The Good Guys Helensvale
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The Good Guys Bayswater
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Retravisio Chirnside Park
Retravisio Geelong (Elsworthy's)

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The Good Guys Midland
The Good Guys Osborne Park
The Good Guys Rockingham
The Good Guys Cockburn
The Good Guys O'Connor

Letter to Samsung customers in Victoria

[SAMSUNG LETTERHEAD]

Dear Samsung Customer

We recently sent you a letter dated [25 January 2013] offering any customer who purchased a Samsung washing machine model number WF0754W7V or WF0854W8E from particular stores during the period from 1 March 2011 to 31 October 2011 an extension of the manufacturer's warranty from 2 years to 5 years (a copy of our earlier letter is attached).

Unfortunately, the attachment to our earlier letter which listed the relevant stores did not include the Victorian stores. The relevant Victorian stores are:

Clive Peeters Victoria
Harvey Norman Chadstone
Harvey Norman Dandenong
Harvey Norman Maribyrnong
Harvey Norman Moorabbin
Harvey Norman Preston
Harvey Norman Jessup (trading as QVH Melbourne)
The Good Guys Thomastown
The Good Guys Moorabbin
The Good Guys Frankston
The Good Guys Hoppers Crossing
The Good Guys Bayswater
Retravisision Maribyrnong
Retravisision Chirnside Park
Retravisision Geelong (Elsworthy's)

In addition to the stores listed in the attachment to our earlier letter, you will be entitled to the extended manufacturer's warranty if you purchased a Samsung washing machine model number WF0754W7V or WF0854W8E from any of the stores in Victoria listed above during the period from 1 March 2011 to 31 October 2011.

If you believe you may be a customer entitled to this extended manufacturer's warranty please contact our Customer Contact Center on 1300 362 603.

Yours sincerely