

COMPETITION AND CONSUMER ACT 2010

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

by

Bunnings Group Limited

ACN 008 672 179

Persons giving this undertaking

- (1) This undertaking is given to the Australian Competition and Consumer Commission (ACCC) by Bunnings Group Limited, ACN 008 672 179 (**Bunnings**) of 16-18 Cato Street Hawthorn East VICTORIA for the purposes of section 87B of the *Competition and Consumer Act 2010 (Act)*.

Background

- (2) Bunnings is a retailer of home improvement and outdoor leisure products in Australia.
- (3) One of the products Bunnings sells is Matchstick roman style indoor blinds (**Matchstick Blinds**). The Matchstick Blinds are supplied to Bunnings by overseas manufacturers.
- (4) The ACCC is responsible for, amongst other things, enforcing compliance with the Australian Consumer Law (consisting of Schedule 2 to the Act) (**ACL**). Relevantly, section 106(1) of the ACL provides that a person must not, in trade or commerce, supply consumer goods of a particular kind if:
 - (i) a safety standard for consumer goods of that kind is in force; and
 - (ii) those goods do not comply with that standard.
- (5) The safety standard in force for corded internal window coverings such as the Matchstick Blinds is the *Trade Practices (Consumer Product Safety Standard – Corded Internal Window Coverings) Regulations 2010 (mandatory safety standard)*.
- (6) The mandatory safety standard stipulates that, where the blind is wrapped in external retail packaging, two labels are required. In addition to the safety warning that must be attached to the blind inside the packaging, a specific safety warning on the external retail packaging must also be attached. The external warning must be in red capital letters at least 5mm high on a white background and contain the words:

‘WARNING: CURTAIN AND BLIND CORDS HAVE CAUSED THE DEATH OF YOUNG CHILDREN AND MUST BE INSTALLED SO THAT THEY ARE NOT A STRANGULATION HAZARD. FOLLOW THE INSTALLATION INSTRUCTIONS’.
- (7) The purpose of the label on the external packaging is to warn consumers prior to purchase of the risk of serious injury to children, including strangulation, and thereby provide those consumers with the opportunity to purchase window coverings that do not present a similar safety hazard.
- (8) From January 2013 to March 2013 Bunnings sold 3,696 Matchstick Blinds that, notwithstanding that they had the appropriate internal safety warning attached to

the product cord, did not comply with the mandatory safety standard because those Matchstick Blinds did not carry the requisite warning on the external packaging as required by the mandatory safety standard.

- (9) Upon becoming aware of this issue, Bunnings:
- (i) immediately withdrew the Matchstick Blinds from sale;
 - (ii) made arrangements to ensure that all Matchstick Blinds it offered for sale now comply with the mandatory safety standard;
 - (iii) put in place product safety warnings and a returns program for consumers in relation to the relevant Matchstick Blinds at Bunnings stores, and posted a warning on Bunnings' website for 30 days until 30 June 2013;
 - (iv) published a Public Notice in major daily newspapers to alert consumers of the labelling issue and the returns policy;
 - (v) published a recall notice on the website: www.recalls.gov.au; and
 - (vi) put in place upgraded product safety compliance processes to address what had occurred.
- (10) Bunnings has a product safety compliance program (**Compliance Program**) that, among other things, is directed at ensuring that the products Bunnings offers for sale are safe and comply with relevant consumer product safety standards. On this occasion Bunnings' Compliance Program failed to detect that the Matchstick Blinds did not comply with the mandatory safety standard.
- (11) Bunnings admits that by supplying indoor corded blinds that did not carry the warning on the external packaging, Bunnings failed to comply with the mandatory safety standard and therefore contravened section 106(1) of the ACL in relation to safety standards.

Commencement of Undertaking

- (12) This Undertaking comes into effect when:
- (i) the Undertaking is executed by Bunnings; and
 - (ii) the ACCC accepts the Undertaking so executed.
- (13) Upon the commencement of this Undertaking, Bunnings undertakes to assume the obligations set out in paragraph 14 below.

Undertakings

- (14) Bunnings undertakes for the purposes of section 87B of the Act that:
- (i) for a period of 3 years it will not, and will ensure that its subsidiaries will not, in trade or commerce supply products in contravention of section 106 of the ACL in relation to safety standards;
 - (i) it will within 3 months of the date of this Undertaking coming into effect:
 - a. introduce a separate and detailed pre-shipping product safety compliance inspection for interior corded window coverings and for other direct import products subject to mandatory product safety standards;
 - b. introduce batch numbering on direct import products subject to a mandatory product safety standard;
 - c. ensure a register block is applied to all products subject to safety assessment or recall;
 - d. upgrade internal systems relating to stock withdrawal;
 - e. review and upgrade training for store management and buyers; and
 - f. conduct regular in store audits of products subject to mandatory safety standards.
 - (iii) it will amend its Compliance Program to reflect the measures taken under paragraph 14(ii) above and will maintain and continue to implement the Compliance Program for a period of 3 years from the date of this Undertaking coming into effect; and
 - (iv) it will, within 6 months of the date of this Undertaking coming into effect, provide a report to the ACCC's General Manager Enforcement Operations – Western Australia, about the effectiveness of the measures taken under paragraph 14(ii) above, including the number of register blocks Bunnings applied.

Acknowledgments

- (15) Bunnings acknowledges that:
- (i) 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;
 - (ii) the ACCC will, from time to time, make public reference to the Undertaking including in news media statements and in ACCC publications; and
 - (iii) this Undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

Executed by

Bunnings Group Limited ACN 008 672 179 and by its authorised officers pursuant to section 127(1) of the *Corporations Act 2001*.


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Secretary/Director


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Director

This 5th day of September 2013

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


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Rodney Graham Sims
Chairman

This 17 day of September 2013