

**TRADE PRACTICES ACT 1974****UNDERTAKING TO THE AUSTRALIAN COMPETITION AND  
CONSUMER COMMISSION GIVEN FOR THE PURPOSE OF  
SECTION 87B****BY****TEMPEL PTY LTD****A.C.N. 058 372 768****BACKGROUND**

1. Tempel Pty Ltd ('Tempel') is incorporated in the State of Queensland and its principal activities include the importation and sale of sunglasses to consumers.
2. The Australian Competition and Consumer Commission ('the Commission') is responsible for ensuring compliance with mandatory consumer product standards under the *Trade Practices Act 1974* ('the Act'). The mandatory product safety standard applicable to sunglasses is Australian Standard 1067.1-1990, as amended ('the Standard').
3. As part of the Commission's national monitoring programme for compliance with the Standard, on 6 November 1996 an officer from the Queensland Office of Consumer Affairs purchased from the Tempel Store in Cairns a pair of 'Cutler & Gross' brand sunglasses imported by Tempel from Cutler & Gross in the United Kingdom, which can be described as having clear frames and pink lenses.
4. On 6 January 1997, the sunglasses were tested by Unisearch Optics and Radiometry ('Unisearch') in accordance with the Standard and failed to meet certain requirements of the Standard. The following results were obtained about the sunglasses:

*Luminous transmittance and other transmittance requirements* -

Table 2.1 of the Standard requires general purpose sunglasses to have a minimum luminous transmittance of 8% and a maximum of 50%. The results indicate an average of 55.30%. The sunglasses cannot, therefore, be classified as general purpose sunglasses.

Table 2.1 of the Standard requires specific-purpose (a) sunglasses to have a minimum Red signal visibility factor of 0.85 and a maximum factor of 1.15. The results indicate an average of 1.55. The sunglasses cannot, therefore, be classified as specific-purpose (a) sunglasses.

Marking - Clause 4.2.1 of the Standard provides that the marking of sunglasses and fashion spectacles shall include the classification of the eye wear and other relevant information in accordance with the Standard.

Specific-purpose (b) sunglasses are required to be marked as follows: "SPECIFIC-PURPOSE (B) SUNGLASSES For protection against ultraviolet radiation in sunlight for specified environments".

The Standard also requires, where specific-purpose (b) sunglasses have lenses with a Red signal visibility factor of greater than 1.4, that the glasses be marked either:

"NOT SUITABLE FOR PERSONS WITH DEFECTIVE COLOUR VISION" or

"NOT SUITABLE FOR PERSONS WITH COLOUR VISION DEFICIENCIES these lenses will further distort their colour perception".

5. The Commission considers that Tempel may have breached section 53(a) of the Act by representing that the sunglasses comply with the Standard when Unisearch's test results indicate they do not. The Commission also considers that Tempel may have breached section 65C of the Act by supplying sunglasses which do not comply with the Standard.
6. Tempel acknowledges that it supplied sunglasses which do not comply with the Standard and that it may have contravened sections 53(a) and 65C of the Act.

## **UNDERTAKINGS**

7. Tempel gives the following undertakings to the Commission for the purpose of section 87B of the Act. Tempel undertakes that:
  - (a) it has ceased the sale or supply of the sunglasses which do not comply with the Standard;
  - (b) within three (3) months of the Commission's acceptance of the undertaking it will institute a Trade Practices Compliance program designed to create a culture of compliance throughout Tempel and to prevent, so far as is reasonably possible, any contraventions of the Act by Tempel, its directors, servants or agents;
  - (c) within three (3) months of the undertaking Tempel will institute an effective Complaint Handling system consistent with the Australian Standard AS 4269-1995 (Complaints Handling);

- (d) it will appoint an appropriately qualified senior executive with overall responsibility for trade practices compliance; and
- (e) it will recompense the Commission the cost of conducting the testing on the sunglasses which do not comply with the Standard. Those costs being \$72.15.

### ACKNOWLEDGMENTS

8. Tempel acknowledges the Commission's right to make this undertaking available for public inspection.
9. Tempel acknowledges that the Commission will issue a media release in relation to this undertaking and may from time to time publicly refer to the undertaking.
10. Tempel acknowledges and accepts that this undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

### IN WITNESS OF THIS UNDERTAKING

\* This FOURTEENTH day of MARCH 1997

THE COMMON SEAL of )  
Tempel Pty Ltd )  
A.C.N. 058 372 768 )  
was affixed in accordance with )  
its Articles of Association: )

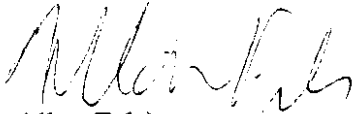
.....  
Director/Secretary

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Director

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Name (printed):

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Name (printed):

**ACCEPTED BY THE AUSTRALIAN COMPETITION AND  
CONSUMER COMMISSION PURSUANT TO SECTION 87B OF  
THE TRADE PRACTICES ACT 1974**

  
(Professor Allan Fels)  
Chairperson

This

25 day of

may 1997