

TRADE PRACTICES ACT 1974**UNDERTAKING TO THE AUSTRALIAN COMPETITION AND CONSUMER
COMMISSION GIVEN UNDER SECTION 87B**

by Sigma Company Limited (ACN 004 132 923)
("Sigma")

BACKGROUND

On 30 June 1998, Sigma publicly announced its intention to make a takeover offer for Allied Master Chemists of Australia Limited (ACN 005 393 957) ("**AMCAL**"). On 20 July 1998, Sigma requested the Australian Competition and Consumer Commission ("**Commission**") to give Sigma an informal clearance for its proposed takeover of AMCAL. Sigma's Part A Statement for the proposed takeover was registered with the Australian Securities and Investments Commission on 13 August 1998.

The Commission undertook public market enquiries in relation to the proposed takeover in July and August 1998. On the basis of its market enquiries the Commission formed the view that the proposed acquisition of the shares in AMCAL would be likely to substantially lessen competition in the supply of pharmaceutical products and the supply of pharmaceutical wholesaling services in Victoria if AMCAL members were not permitted to continue acquiring pharmaceutical products and pharmaceutical services from their preferred wholesaler. By letter dated 27 August 1998 the Commission informed Sigma that the Commission did not propose to intervene in the proposed acquisition pursuant to section 50 of the *Trade Practices Act 1974* (C'th) provided that Sigma gave an undertaking to the Commission that it would not for a period of three years impose any restriction on the ability of AMCAL members to acquire pharmaceutical goods or pharmaceutical services from their preferred wholesaler.

DEFINITIONS

“Act” means the *Trade Practices Act 1974* (C'th).

“AMCAL” means Allied Master Chemists of Australia Limited (ACN 005 393 957).

“AMCAL member” means a pharmacist that is or becomes a party to an AMCAL Membership Agreement.

“AMCAL Membership Agreement” means an agreement between AMCAL and a pharmacist which provides for the pharmacist to carry on an independent retail pharmacy business under the AMCAL banner.

“commencement date” means the date on which this undertaking comes into effect as specified in clause 1 below.

“Commission” means the Australian Competition and Consumer Commission.

“information technology systems” means Portable Data Entry (PDE), two-way PDE or point of sale systems, or other electronic ordering systems however described.

“pharmaceutical products” means ethical pharmaceuticals (including PBS and non-PBS ethical products) and OTC, general health and beauty products (including for example cosmetics, nappies, paper products, healthcare equipment and photographic products).

“pharmaceutical services” means electronic ordering, wholesaling and retail marketing support services.

“Sigma” means Sigma Company Limited (ACN 004 132 923).

The singular includes the plural and vice versa.

COMMENCEMENT OF UNDERTAKING

1. This undertaking comes into effect when:
 - (a) the undertaking is executed by Sigma; and
 - (b) the undertaking so executed is accepted by the Commission.

UNDERTAKING

2. Sigma undertakes to the Commission under section 87B of the Act that it will not, and that it will ensure that AMCAL does not :
 - I. directly or indirectly, hinder or prevent any AMCAL member from acquiring pharmaceutical products or pharmaceutical services from their preferred supplier;
 - II. recommend, promote, offer to supply or supply to AMCAL members any information technology system the use of which would have the effect, or be likely to have the effect, of hindering or preventing AMCAL members from acquiring pharmaceutical products or pharmaceutical services from their preferred supplier;
 - III. recommend, promote or effect any alterations or modifications to the information technology systems currently installed in AMCAL members' pharmacies that would have the effect, or be likely to have the effect, of hindering or preventing AMCAL members from acquiring pharmaceutical products or pharmaceutical services from their preferred supplier;
 - IV. make any change to AMCAL's Memorandum and Articles of Association that would have the effect, or be likely to have the effect, of hindering or preventing AMCAL members from acquiring pharmaceutical products and pharmaceutical services from their preferred supplier.
3. Sigma undertakes to the Commission under section 87B of the Act that it will take all reasonable steps to ensure that the AMCAL Board of

Directors includes at least three (3) AMCAL members who are independent of Sigma.

EXPIRY OF UNDERTAKING

4. This Undertaking ceases to have effect three (3) years after the commencement date.

ACKNOWLEDGMENTS

5. Sigma acknowledges that the Commission may make this Undertaking available for public inspection.

6. Sigma further acknowledges that the Commission may from time to time publish and publicly refer to this Undertaking at its discretion.

EXECUTED on the 28th day of October 1998.

THE COMMON SEAL OF SIGMA COMPANY LIMITED (ACN 004 132 923) was hereto affixed by authority of the Board of Directors in the presence of:



[Handwritten signature]

.....

Director / Secretary

[Handwritten signature]

.....

Director

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

[Handwritten signature]

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(Professor Allan Fels)
Chairperson

Dated : *19 November* 1998