

FILE No.

ENTITY D00 / 37396.

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**UNDERTAKING TO THE AUSTRALIAN COMPETITION & CONSUMER
COMMISSION GIVEN PURSUANT TO SECTION 87B OF THE TRADE PRACTICES
ACT 1974**

BY

SPOTLIGHT PROMOTIONS PTY LIMITED (ACN 010 812 521)

BACKGROUND

- 1) Spotlight Promotions Pty Limited (Spotlight) is incorporated in the state of Queensland and its principal activities include the supply of goods, such as sunglasses and toys, to large companies for promotional purposes.
- 2) Following receipt of a complaint in early September 2000, a Commission investigation found that Spotlight had supplied Carlton and United Breweries (CUB) with sunglasses for promotional purposes that did not comply with the prescribed consumer product safety standard for Sunglasses and Fashion Spectacles, being Australian Standard number, 106.7-1990 (the Standard). The sunglasses are grey 'wrap arounds' and are marked with the word "COLD" on the frames (the sunglasses).
- 3) Section 65C of the Trade Practices Act (the Act) prohibits the supply of products for which there is a prescribed consumer product safety standard and which do not comply with that standard. It is the view of the Australian Competition and Consumer Commission that in supplying the non-complying sunglasses, Spotlight may have contravened the Act.
- 4) The Commission brought to Spotlight's attention its concern that the sunglasses may not comply with the Standard. Spotlight immediately ceased supply of the sunglasses and sent the sunglasses to a National Accredited Testing Authority for testing in accordance with the Standard. The test report, provided to the Commission by Spotlight, indicated the sunglasses failed to comply with the Standard. Spotlight advised the Commission that the supply of the non complying sunglasses occurred as a result of human error. At the request of the Commission Spotlight undertook the following action:
 - (i) It published a consumer product safety recall notice of the sunglasses (the recall notice), as detailed in Annexure A, with an offer of refunds or a pair of replacement sunglasses to consumers in the newspapers and on the dates listed below:
 - The Brisbane Courier Mail, on 17 October 2000;
 - The Newcastle Herald, on 19 October 2000; and
 - The Cairns Post, on 18 October 2000.
 - (ii) It placed the recall notice in a prominent position on an A3 size piece of paper at the following locations:

- near the cash register at the CUB merchandise store called *Brewhouse* which is located on the Cnr of Mulles Road and Pacific Highway, Yatala, Queensland, where the sunglasses had been sold, on 23 October 2000;
- near the cash registers/ reception desks at those hotels and bottle shops in the Toowoomba area in which the sunglasses were given away to non CUB staff, on 26 October 2000; and
- on a notice board with a letter of explanation to the Society of Economic and Commerce Students at the University of Queensland where the sunglasses had been given away by CUB at a function, on 26 October 2000.

UNDERTAKING

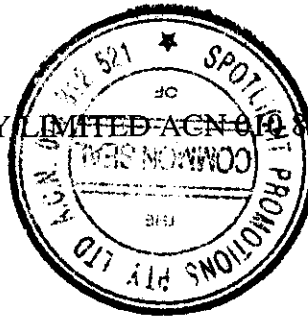
- 5) Spotlight hereby undertakes for the purposes of section 87B of the Act that it will not, and it will ensure that all its State branches will not, in trade or commerce:
 - (i) Supply any products for which there is a prescribed consumer product standard and which do not comply with such standards; and
 - (ii) that it will:
 - (iii) commission an independent audit of the outcome of the recall process (including the results of the number of refunds and/or replacements provided to consumers), by an independent suitably qualified person approved by the Commission;
 - (iv) provide a report in respect of point (iii) above to the Commission by 14 December 2000;
 - (v) institute and maintain, at its own expense, a Trade Practices Corporate Compliance Program (CCP) in accordance with the Australian Standard on Compliance Programs, being Australian Standard number, 3806- 1998 with a focus on Parts V and VA of the Act, including the prescribed consumer product safety standards under the Act;
 - (vi) provide an independent yearly audit of its CCP by an independent suitably qualified person, approved by the Commission, and
 - (vii) provide the Commission with a report in respect of point (vi) above, annually for a period of two years from the date of acceptance of these undertakings.

ACKNOWLEDGEMENTS

1. Spotlight acknowledges the Commission's right to make this undertaking available for public inspection and notes that the Commission will, at its discretion, from time to time, publish and publicly refer to this undertaking.
2. Spotlight acknowledges and accepts that this undertaking in no way derogates the rights and remedies available to any person arising from Spotlight's conduct.

IN WITNESS TO THESE UNDERTAKINGS

The Common seal of SPOTLIGHT PROMOTIONS PTY LIMITED ACN 012 521 was hereunto affixed in the presence of:



Director: _____

Director / Secretary: _____

This 27 day of October, 2000.

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

A/9 Chairman: _____

This 8th day of November 2000.

ANNEXURE A

SUNGLASSES SAFETY RECALL “COLD” SUNGLASSES

The sunglasses are marked with the word “COLD”, have grey tinted plastic lenses and are mounted in a grey plastic frame. The sunglasses are of the wrap around style and have black rubber covers at the end of each arm. The sunglasses were supplied by Spotlight Promotions Pty Limited to Carlton and United Breweries Limited (CUB).

The above mentioned sunglasses were sold or given away by CUB at the following locations on the following dates:

Royal Queensland Show – 10 to 19 August 2000-10-19 Brewhouse, Cnr Mulles Rd and Pacific Highway, Yatala, Queensland – 1 August to 18 September 2000.

Trade Promotions in Queensland – 27 June to 18 September 2000

Shooters Bar & Grill, Surfers Paradise – 7 September and 14 September 2000

The Reef Hotel and Casino, Cairns – 30 July, 7 August, 14 August 2000

Australian Board Riders Competition, Newcastle – 3 July to 7 July 2000

These sunglasses fail to comply with the mandatory Australian Standard AS 106.7 – 1990. The sunglasses fail this standard with respect to the refractive properties of their lenses, and as such the wearer may experience blurred vision, misjudgment of depth and/or misjudgment of position.

AS THE SUNGLASSES ARE UNSAFE, CONSUMERS SHOULD NOT USE THEM

Consumers who purchased the sunglasses or received the sunglasses for free, can return the sunglasses immediately to:

Spotlight Promotions Pty Limited
Reply Paid 1153
FORTITUDE VALLEY QLD 4006
Ph: 07 3854 1011

for a full refund or a replacement pair to the equivalent value of the non-complying sunglasses.

Attn: Consumer, business writers

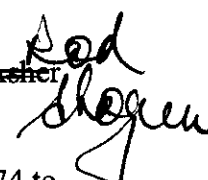
UNSAFE SUNGLASSES RECALLED

Following an approach by the ACCC, Spotlight Promotions Pty Limited, a Queensland based promotional merchandise supplier, has recalled sunglasses which fail to comply with the mandatory safety standard for sunglasses (AS 1067-1190 Sunglasses and Fashion Spectacles). Testing of the sunglasses by an accredited testing authority, Unisearch, has found the sunglasses could cause blurred vision, misjudgment of depth, position or objects, and therefore should not be worn.

The sunglasses are grey tinted 'wrap arounds' with the word 'COLD' on the frame. The sunglasses were supplied by Spotlight to Carlton and United Breweries (CUB) for promotional purposes. The sunglasses were sold at the CUB merchandising store "Brewhouse", in Yatala, Queensland, and were either sold or given away by CUB at trade promotions in Queensland and New South Wales. These promotions included the Royal Queensland Show which took place from 10 to 19 August 2000, a CUB promotion at Shooters Bar & Grill in Surfers Paradise on 7 July and 14 July 2000, a CUB promotion at the Reef Hotel and Casino in Cairns on 30 July, 7 August and 14 August 2000, a CUB function at the Society of Economics and Commerce Students at the University of Queensland on 22 July 2000, and a CUB promotions at the Australian Board Riders Competition in Newcastle from 3 July to 7 July 2000. The sunglasses were also given away to hotel staff in various hotels in the Toowoomba area in Queensland.

A consumer product safety recall notice was placed by Spotlight in the Courier Mail on 17 October 2000, the Cairns Post on 18 October 2000 and the Newcastle Herald on 19 October 2000. The same notice was also placed at the above hotels, the "Brewhouse", and at the University of Queensland. As part of the recall process, consumers are asked to return the sunglasses to Spotlight for either a full refund of the purchase price or a replacement pair of sunglasses which comply with the Standard. Consumers wishing to return the sunglasses can send them to Spotlight's reply paid post office box number 1153, Fortitude Valley, Queensland 4006. The company agreed to a reply paid PO Box to encourage returns.

Spotlight has also provided the ACCC with a court enforceable undertaking to implement a corporate compliance program to ensure the likelihood of repeat conduct is minimised.

"Spotlight responded quickly and cooperatively when requested by the ACCC to publish a consumer product safety recall notice and provide refunds," Acting ACCC chairman, Mr ~~Asher~~  said today.

"Suppliers should be aware that it is a breach of section 65C of the Trade Practices Act 1974 to supply products which fail comply with a mandatory product safety standard. The ACCC is vigilant in upholding mandatory product safety standards and undertakes regular surveys of products for which there are mandatory standards Suppliers of sunglasses should note that sunglasses are the subject of scrutiny at present, and should acquaint themselves with the sunglasses standard and implement appropriate compliance programs".

Further information

~~Mr Allen Asher, Action Chairman 902) 6243 1138~~

Ms Lin Enright, Director, Public Relations, 902) 6243 1108 or (0414) 613 520
MR 758/00
30 October 2000