



TRADE PRACTICES ACT 1974 - SECTION 87B UNDERTAKING

Person giving undertaking

This undertaking is given to the Australian Competition and Consumer Commission ("the Commission") by Firevac Pty Ltd (ACN 010 607 379) ("Firevac") and William John Lynch ("Mr Lynch") under section 87B of the *Trade Practices Act 1974* ("the Act").

Background

On 29 September 1999 the Commission instituted Federal Court proceedings Q239 of 1999 against fire protection companies and individuals in Queensland including Firevac, and its director and shareholder Mr Lynch ("the proceedings"). The proceedings involve price-fixing and market sharing conduct in the Queensland fire protection industry, in breach of sections 45(2)(a)(ii) and 45(2)(b)(ii) of the Act. The conduct is set out the statement of claim filed in the proceedings.

As part of the resolution of the proceedings, Firevac and Mr Lynch have agreed to provide to the Commission the undertaking contained herein that Firevac will implement and maintain a trade practices compliance training program, to ensure, so far as reasonably possible, neither Firevac nor its employees are involved in further contraventions of Part IV of the Act. Mr Lynch has also undertaken to use his best endeavours to operate Firevac in such a manner as to ensure that it is able to meet its obligations under the orders to be recommended to the Court.

The Commission has agreed to accept the undertaking from Firevac and Mr Lynch under section 87B of the Act.

Commencement of undertaking

1. This undertaking comes into effect when:
 - (a) the undertaking is executed by Firevac and Mr Lynch; and

- (b) the undertaking so executed is accepted by the Commission.

Undertakings

2. Firevac undertakes that:

- (a) Firevac will implement a trade practices compliance program for staff that is in accordance with the Australian Standard for Compliance Programs AS3806-1998, with particular regard to Part IV of the Act ("the Program").
- (b) The Program will aim to create a culture of compliance within Firevac and to prevent, so far as is reasonably possible, any contraventions of the Act by Firevac or by its officers, employees or agents.
- (c) The Program will cover all officers, employees and agents of Firevac whose duties could result in their being concerned in conduct that might breach the Act.
- (d) Firevac will submit a draft of the Program to the Commission within 30 days of the date of this undertaking.
- (e) Firevac will incorporate into the Program, and implement as part of the Program, any reasonable changes to the draft program that are recommended by the ACCC in writing.
- (f) Firevac will implement the Program within 30 days of the ACCC advising whether any changes are required to the draft program, as referred to in subparagraph (e) above.
- (g) The Program will remain in force for a minimum period of three years from the date of its implementation.

3. Mr Lynch undertakes that:

- (a) he will use his best endeavours to ensure that Firevac complies in all respects with the undertakings it has given herein; and

(b) he will use his best endeavours to ensure that Firevac is able, and at all times remains able, to comply with Firevac's obligations to pay pecuniary penalties by the due dates therefor under the orders agreed between Firevac, Mr Lynch and the Commission, and to be recommended to the Court.

4. Firevac and Mr Lynch acknowledge that the Commission may make public the terms of this undertaking, including by placing it on a register, publishing it and allowing third parties to publish it.
5. Firevac and Mr Lynch acknowledge that this undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

EXECUTED on the 11th day of October 2000.

The Common Seal of **FIREVAC PTY LTD**
ACN 010 607 379 was affixed in
accordance with its Articles of Association in the presence of:



[Signature]
.....
Signature of authorised person

.....
Signature of authorised person

DIRECTOR
.....
Office held

.....
Office held

W. J. Lynch
.....
Name of authorised person

.....
Name of authorised person

AND SIGNED BY:



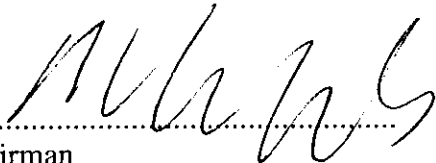
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WILLIAM JOHN LYNCH
Director, Firevac Pty Ltd

Dated: 11 October 2000



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WITNESS

ACCEPTED BY THE AUSTRALIAN COMPETITION AND CONSUMER
COMMISSION



.....
Chairman

Dated: 18 October 2000