

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

GIVEN BY

**ZG PTY LTD
ACN 083 185 175**

BACKGROUND

1. ZG Pty Ltd (“ZG”) is incorporated under the Corporations Law and its principal activities include supply of goods, including vehicle trolley jacks, by wholesale.
2. Following an investigation by the Australian Competition and Consumer Commission (“the Commission”), the Commission reached the view that ZG contravened section 65E of the Trade Practices Act 1974 (“the Act”) by supplying a quantity of units of a vehicle trolley jack which did not comply with the mandatory consumer product standard for trolley jacks, *AS/NZS2615:1995 Hydraulic trolley jacks* (“the Standard”).
3. On 13 July 2000, a Commission officer purchased a jack (“the jack”) marked “Macho Pty Ltd” and “2000kg” and featuring a “LF” logo from a Victorian retailer, Bayswater Bearings Pty Ltd (“Bayswater”), which did not appear to comply with the Standard.
4. Bayswater advised the Commission that it was supplied the jack by a wholesaler, J & B Wade Nominees Pty Ltd (“Wade”), and that Wade was supplied the jack by ZG.
5. On 28 July 2000, the Commission requested ZG to cease supplying the jack.
6. By letter dated 1 August 2000 from ZG to the Commission ZG admitted that it supplied 94 units of the jack to two retailers in South Australia, namely Statewide Tools and The Tool Box, and to a Victorian wholesaler, namely Wade, in the period 2 January and 13 December 1999.
7. On 4 August 2000, the Commission requested ETRS Pty Ltd (“ETRS”), an independent testing authority, to test the jack against the Standard. ETRS reported to the Commission that the jack failed to comply with the following clauses of the Standard:
 - ◆ Clause 5.5 – overload protection;
 - ◆ Clause 6.7 – eccentric load test; and
 - ◆ Clause 7 – marking.
8. By letter dated 10 August 2000 from ZG to the Commission ZG agreed to voluntarily recall the jack and offer refunds to consumers.

9. By letter dated 21 August 2000 from ZG to the Commission ZG advised that it had informed Statewide Tools, The Tool Box and Wade of the recall.
10. On 22 August 2000, a recall notice appeared in *The Advertiser* and *The Herald Sun*, a copy of which is attached hereto and marked Annexure A (“the recall notice”).

UNDERTAKINGS

ZG UNDERTAKES TO:

- A. Refrain from supplying or offering to supply the jack in the future, by wholesale or otherwise;
- B. Refrain from supplying or offering to supply, at any time in the future, a vehicle trolley jack which does not comply with the Standard;
- C. Cause to be destroyed, at its own expense, each jack returned pursuant to the recall notice.
- D. As an alternative to C, cause, at its own expense, the jack to be retested by an organisation registered by NATA, or an equivalent recognised or accredited testing agency, at a lower capacity rating. If the jack passes the testing, and is relabelled accordingly, then ZG may resell the jack.
- E. Maintain a record of the following:
 - a. the total number of jacks returned pursuant to the recall notice;
 - b. the date each jack was returned;
 - c. by whom each jack was returned; and
 - d. when, where, by whom and by what means each jack was destroyed; or
 - e. if the jack is retested at a lower capacity rating, and found to comply with the standard, then when, where and by whom was the jack tested.
- F. Cause, at its own expense, an independent audit to be conducted of the return and destruction or retesting of jacks returned pursuant to the recall notice. The audit shall be carried out by a suitably qualified professional who is independent of ZG and acceptable to the Commission (“the auditor”).

The auditor shall review and report on:

- a. the total number of jacks returned pursuant to the recall notice;
- b. the date each jack was returned;
- c. by whom each jack was returned; and
- d. when, where, by whom and by what means each jack was destroyed; or
- e. if the jack was retested at a lower capacity rating, whether it complies with the standard (the test report to be provided), when, where and by whom was the jack tested.

- G. Provide a copy of the auditor's report to the Commission within 60 days of the date of the recall notice.
- H. Within 3 months of the acceptance of this undertaking, implement a Trade Practices Compliance Program in the form that appears at Schedule 1 of this undertaking, the aim of which is to create a culture of compliance throughout ZG and to prevent, so far as is reasonably possible, any contraventions of the Act by itself, its directors, servants or agents; and that the Trade Practices Compliance Program will remain in force for a minimum period of 3 years from the date on which the Trade Practices Compliance Program is implemented.
- H. Use its best endeavours to acquaint itself, its directors, servants and agents with all prescribed consumer product safety standards and prescribed consumer product information standards relating to products supplied or likely to be supplied by ZG in Australia.
- I. Appoint a senior manager of ZG ("the Compliance Officer"), with responsibility for the implementation of the Trade Practices Compliance Program and overall trade practices compliance.
- J. Cause, at its own expense, an independent audit to be conducted of the Trade Practices Compliance Program, 12 months after its implementation. The audit shall be carried out by a suitably qualified professional who is independent of ZG and acceptable to the Commission.

The auditor shall review and report on:

- a. the implementation of the Trade Practices Compliance Program and the achievement of its objectives over the preceding 12 months; and
 - b. recommend changes to the Trade Practices Compliance Program that may be necessary to ensure achievement of its objective.
- K. Provide a copy of the auditor's report to the Commission and adopt, subject to the Commission's approval, any changes made by the auditor to the Trade Practices Compliance Program.

ACKNOWLEDGMENTS

1. ZG acknowledges the Commission's right to make this undertaking available to the public including by placing it on a register, publishing it and allowing third parties to publish it.
2. ZG further acknowledges that the Commission may issue a media release about this undertaking and may, from time to time, publicly refer to the undertaking.
3. ZG 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 these undertakings and its agreement the common seal of ZG PTY LTD (ACN 083 185 175) was hereunto affixed by authority of the Board of Directors in the presence of:



Secretary/~~Director~~..... *Ding Zhou* Director..... *Ding Zhou*

This 28th day of September 2000

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

..... *Allan Fels*

(Professor Allan Fels)
Chairperson

This 12th day of October 2000

Schedule 1

TRADE PRACTICES COMPLIANCE PROGRAM

OF


**ZG PTY LTD
(CAN 083 185 175)**

1. Maintain up-to-date copies, at ZG's business premises, of all prescribed consumer product safety standards and prescribed consumer product information standards that relate to products that ZG supplies.
2. Upon identifying a prospective product for importation and distribution into Australia make the necessary enquiries to ascertain whether the product is required to comply with any prescribed consumer product safety standards and/or prescribed consumer product information standards.
3. If ZG supplies a product or intends to supply a product that is subject to a product safety standard and/or information standard:
 - a. Obtain from the supplier the relevant certificate of testing by an organisation registered by the National Association of Testing Authorities (NATA), or an equivalent recognised or accredited testing agency, indicating compliance to the current relevant product safety standard and/or information standard;or
 - b. Where such a certificate is not provided by a supplier, obtain a sample(s) from the supplier and have such sample(s) tested by:
 - a. An organisation registered by NATA to test the particular product to the relevant standard; or
 - b. Where a NATA accredited organisation does not exist, an appropriately qualified person to test the particular product to the relevant standard.and
 - c. Ensure that the product complies with the relevant standard, including the relevant warnings and/or markings on the product and/or its packaging, prior to supplying the product in Australia.
4. Ensure that the products supplied by ZG prior to the implementation of this compliance program comply with the relevant standards.

ANNEXURE A

**PRODUCT SAFETY
RECALL**


**2000KG CAPACITY
HYDRAULIC FLOOR JACK**



ZG Pty Ltd is recalling
the following
Hydraulic Floor Jacks:

Description: 2000kg capacity hydraulic floor jack

The above floor jacks are in red colour with label marking: 2000KG CAPACITY HYDRAULIC FLOOR JACK AS 2615-1987 APPROVAL or 2000KG MACHO PTY LTD AS2615-1987 APPROVAL.

Both have a  logo which were sold from 1 January 1999 and up until 17 July 2000.

This action is being taken because the floor jacks did not comply with the following clauses of the Mandatory Standard AS/NZS 2615:1995 (Hydraulic Trolley Jacks).

- Overload Protection
- Eccentric Load Test
- Marking

These may cause serious risk of injury to users.

If you have purchased the 2000KG Hydraulic Floor Jack with the label marking and description as above during 01/01/1999 - 17/07/2000, **you should cease using it immediately** and return it to your place of purchase for a full refund.

Any questions regarding this safety recall can contact ZG Pty Ltd on Phone: (08) 8359 1013 or Fax: (08) 8449 4771.

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