

TRADE PRACTICES ACT 1974 - SECTION 87B**UNDERTAKING****Person giving Undertaking**

This undertaking is given to the Australian Competition and Consumer Commission ("the ACCC") by ALH Group Pty Ltd under section 87B of the *Trade Practices Act* 1974 ("the Act").

Background

Between 1 July 2000 and 28 July 2000, the ALH Group inadvertently, ~~but~~ ^{RKQ} incorrectly calculated the revised New Tax System direct and indirect taxes on certain wine-based products. The affected products are listed in Annexure 1.

Inadvertent pricing errors were identified in South Australia in respect of the products listed in Annexure 2.

Annexure 1 Products

Before 1 July 2000, wine-based products were subject to wholesale sales tax at the wine rate of 41%. After 1 July 2000, these products did not attract the new Wine Equalisation Tax ("WET") but rather became subject to excise duty in very much the same way as spirit based drinks. The ALH Group inadvertently, ~~but~~ ^{NRVO} incorrectly applied the WET and the revised alcohol excise rate to the aforementioned wine-based products.

On 28 July 2000, the ALH Group detected that it had been over-charging these taxes on the wine-based products. ALH Group voluntarily notified the ACCC immediately of the conduct and confirmed that all affected products had been removed from sale.

The conduct ceased on 28 July 2000. Further investigations by the ALH Group indicate that none of the affected items were sold after 28 July 2000 until after prices were corrected and products returned to sale.

On 7 August 2000, the ALH Group advised the ACCC that the aggregate amount by which consumers were over-charged was estimated to be \$12,322.00.

Annexure ^{RHO} Products ~~2~~

2

The products listed in Annexure 2 were inadvertently, ~~but~~ incorrectly priced. The error was detected by ALH Group on 1 August 2000 and voluntarily and immediately notified to the ACCC.

The conduct ceased on 1 August 2000 when the price of all products likely to have been affected by the error was adjusted to the correct price.

On 8 August 2000, the ALH Group advised the ACCC that the aggregate amount by which consumers were over-charged on the products listed was estimated to be \$600.00.

The ACCC has expressed its concerns to ALH ^{RHO} _{GROUP} that the incorrect calculations of taxes under the New Tax System may have misled or been likely to mislead customers about the effect or likely effect of the New Tax System changes on wine-based prices, contrary to sections 75AU, 75AYA and section 52 of the Act. The ACCC further considers the representations may have constituted misleading representations with respect to the price of goods, contrary to section 53(e) of the Act.

The ALH Group acknowledges the ACCC's concerns, and has offered these undertakings to address those concerns, to ensure its customers are not confused or misled as to the effect of the New Tax System changes on the prices of these particular wine-based products, and to demonstrate its good faith to any customers who may have

been misled or over-charged as a result of the representations.

The ACCC acknowledges the voluntary disclosure and the full and prompt cooperation of ALH Group in addressing these matters, and has agreed to accept the undertaking from ALH Group under section 87B of the Act.

Commencement of Undertaking

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

Notification to Consumers

2. ALH undertakes to notify consumers of its conduct using the following method:
 - (a) notifications to be placed in all off-premises venues detailing the conduct, the voluntary disclosure to the ACCC, and the response to the conduct by the ALH Group;
 - (b) notifications to be placed in all off-premises venues detailing the refund processes of the compensation settlement package;
 - (c) notifications to be placed in all off-premises venues detailing the 4 week 15 percent discount period for the products listed in Annexures 1 and 2;
3. The distribution and publication of the above notifications shall be subject to the approval by the ACCC.

Compensation to customers and the public

4. The ALH Group undertakes that:

- (a) all customers that produce proof of purchase of any of the affected products between 1 July 2000 and 28 July 2000 will receive a refund of the entire purchase price of the affected product; and
- (b) on Friday 1 September 2000, commencing at start of trade and ceasing at close of trade on Thursday 28 September 2000, all consumers purchasing the affected products (listed in Annexure 1 and 2) will receive a 15 percent discount from the correct retail price as at 1 July 2000;

5. The ALH Group undertakes that:

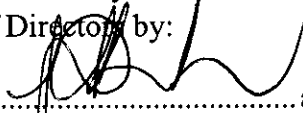
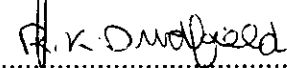
- (a) It will provide the ACCC with a final figure of the value of the compensation package.

Acknowledgments

6. The ALH Group acknowledges and accepts that:

- (a) the ACCC may make these undertakings available for public inspection including by placing it on a register, publishing it and allowing third parties to publish it, and that the ACCC may from time to time publicly refer to these undertakings, including by way of media release;
- (b) this undertaking in no way derogates from the rights and remedies which may be available to any other person arising from the alleged conduct.

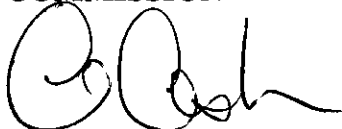
THE COMMON SEAL OF ALH GROUP PTY LTD was hereto affixed by authority of a Resolution of the Board of Directors by:


..... a Director and

..... the Secretary.



Date: 29 August 2000

ACCEPTED BY THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION


Chairman

Dated: ~~August~~ 2000

September 19 2000

Queensland – Off Premise Data

Product Description	Size	Sales Volume	Per Unit Overcharge	Total Overcharge
Devonshire B/scotch Schnapps	700ml	70	4.71	329.70
Everglades B/Scotch Schnapps	700ml	50	4.72	236.00
Everglades Chocolate Schnapps	700ml	4	4.71	18.84
Everglades Melon Schnapps	700ml	5	4.71	23.55
Everglades Peach Schnapps	700ml	13	4.71	61.23
Everglades White Sambuca	700ml	1	2.51	2.51
KGB Black Russian Btl	330ml	519	0.03	15.57
KGB Black Russian Btl 24pk	330ml	2	0.38	0.76
KGB Black Russian Btl 3pk	330ml	42	0.04	1.68
KGB Black Russian Btl 4pk	330ml	44	0.05	2.20
KGB Btl 3pk	330ml	10	1.97	19.70
KGB Btl 6pk	330ml	11	3.68	40.48
MI5 Btl	330ml	28	0.32	8.96
MI5 Btl 24pk	330ml	2	8.53	17.06
Mississippi Moonshine	700ml	56	4.72	264.32
Purple Goanna Btl	330ml	245	0.62	151.90
Purple Goanna Btl 24pk	330ml	1	14.75	14.75
Purple Goanna Can	440ml	120	0.02	2.40
Purple Goanna Can 3pk	440ml	22	0.02	0.44
Purple Goanna Can 4pk	440ml	48	0.03	1.44
Stinger Melon 4pk	330ml	1	2.98	2.98
Stinger Raspberry 4pk	330ml	1	2.98	2.98
Stinger Raspberry 6pk	330ml	1	4.48	4.48
Stoli Lemon Ruski 24pk	300ml	43	0.44	18.92
Stoli Lemon Ruski 4pk	300ml	1477	0.07	103.39
Stoli Lemon Ruski 6pk	300ml	1465	0.11	161.15
Stoli Lemon Ruski 8pk	300ml	795	0.15	119.25

ALH Group Pty Ltd

Queensland – Off Premise Data

Product Description	Size	Sales Volume	Per Unit Overcharge	Total Overcharge
Strongbow Black Cider	345ml	252	0.04	10.08
Strongbow Black Cider 6pk	345ml	62	0.19	11.78
Strongbow Lemon Wht Cider Ctn	345ml	1	0.76	0.76
Sub Zero Bskt Pk	330ml	457	0.36 ⁽¹⁾	164.52
Sub Zero Bskt Pk 24pk	330ml	3	8.68 ⁽¹⁾	26.04
Sub Zero Bskt Pk 6pk	330ml	180	2.17 ⁽¹⁾	390.60
Sub Zero Lemon 24pk	330ml	12	0.64	7.68
Sub Zero Lemon 4pk	330ml	634	0.11	69.74
Sub Zero Lime Can	330ml	60	1.32	79.20
Sub Zero Lime Can 4pk	330ml	11	5.26	57.86
Sub Zero Mango Can	330ml	59	1.32	77.88
Sub Zero Mango Can 4pk	330ml	13	5.26	68.38
Sub Zero Raspberry Can	330ml	63	1.32	83.16
Sub Zero Raspberry Can 4pk	330ml	13	5.26	68.38
Tattoo Raspberry	330ml	253	1.20	303.60
Tattoo Raspberry 3pk	330ml	17	4.16	70.72
Tattoo Raspberry 4pk	330ml	28	6.06	169.68
Tattoo Raspberry Ctn	330ml	1	28.77	28.77
Two Dogs Lemonade 6pk	345ml	158	0.15	23.70
Two Dogs Lemonade Ctn	345ml	1	0.61	0.61
Two Dogs Orange 24pk	345ml	2	1.16	2.32
West Coast Cooler	250ml	3632	0.01	36.32
West Coast Cooler 6pk	250ml	1697	2.76	4,683.72
West Coast Cooler Ctn	250ml	51	11.05	563.55
West Coast Cooler Ctn	250ml	4	11.05	44.20
Wild Peach Cooler	250ml	83	0.02	1.66

(1) Differs from the overcharge previously advised on 2 August 2000

ALH Group Pty Ltd
Queensland – Off Premise Data

Product Description	Size	Sales Volume	Per Unit Overcharge	Total Overcharge
Wild Peach Cooler 6pk	250ml	16	0.12	1.92
Zambuka Black Sambuca	700ml	2	4.36	8.72
Total Sales 03/07/00 – 28/07/00		12,841		\$8,592.19

Extrapolated Data: 01/07/00 – 28/07/00

13,829 units

\$9,253.13

ALH Group Pty Ltd

New South Wales – Off Premise Data

Product Description	Size	Sales Volume	Per Unit Overcharge	Total Overcharge
KGB Btl	330ml	1	0.61	0.61
KGB Btl 12pk	330ml	1	6.18	6.18
KGB Can	440ml	64	0.70	44.80
KGB Can 4pk	440ml	16	2.81	44.96
Stinger Melon	330ml	1	0.75	0.75
Stoli Lemon Ruski	300ml	774	0.06	46.44
Stoli Lemon Ruski 24pk	300ml	10	1.44	14.40
Stoli Lemon Ruski 4pk	300ml	43	0.24	10.32
Stoli Lemon Ruski 6pk	300ml	233	0.36	83.88
Stoli Lemon Ruski 8pk	300ml	59	0.48	28.32
Stongbow Black Cider	345ml	6	0.03	0.18
Strongbow Lemon Wht Cider	345ml	54	0.03	1.62
Tattoo Raspberry	330ml	10	0.01	0.10
Two Dogs Lemonade	345ml	33	0.03	0.99
Two Dogs Lemonade 6pk	345ml	8	0.15	1.20
Two Dogs Orange	345ml	25	0.03	0.75
West Coast Cooler	250ml	150	0.18	27.00
West Coast Cooler 6pk	250ml	94	1.05	98.70
West Coast Cooler Ctn	250ml	5	4.19	20.95
Total Sales 03/07/00 – 28/07/00		1,587		432.15

Extrapolated Data: 01/07/00 – 28/07/00

1,709 units

\$465.39

ALH Group Pty Ltd

Victoria – Off Premise Data

Product Description	Size	Sales Volume	Per Unit Overcharge	Total Overcharge
KGB Black Russian Btl 3pk	330ml	102	0.02	2.04
KGB Btl	330ml	81	0.69	55.89
KGB Btl 12pk	330ml	3	8.19	24.57
KGB Btl 3pk	330ml	16	2.05	32.80
KGB Btl 6pk	330ml	12	4.10	49.20
KGB Can	440ml	167	0.62	103.54
KGB Can 4pk	440ml	23	3.61	83.03
KGB Can 6pk	440ml	11	6.16	67.76
Mississippi Moonshine	770ml	8	4.77	38.16
Stinger Melon	330ml	3	0.81	2.43
Strongbow Black Cider	345ml	143	0.03	4.29
Strongbow Black Cider 6pk	345ml	9	0.08	0.72
Strongbow Lemon White Cider	345ml	247	0.03	7.41
Strongbow Lemon White Cider Ctn	345ml	1	0.31	0.31
Two Dogs Lemonade	345ml	56	0.02	1.12
Two Dogs Lemonade 6pk	345ml	16	1.19	19.04
Two Dogs Orange	345ml	23	0.03	0.69
Two Dogs Orange 6pk	345ml	3	0.17	0.51
Total Sales 03/07/00 – 28/07/00		924		\$493.51

Extrapolated Data: 01/07/00 – 28/07/00

995 units

\$531.47

ALH Group Pty Ltd

South Australia -- Off Premise Data

Product Description	Size	Sales Volume	Per Unit Overcharge	Total Overcharge
KGB Can	440ml	461	0.40	184.40
Stinger Blue	330ml	7	0.58	4.06
Two Dogs Orange	345ml	198	0.50	99.00
Two Dogs Orange 6pk	345ml	3	3.01	9.03
Total Sales 03/07/00 – 28/07/00		669		\$296.49

Extrapolated Data: 01/07/00 – 28/07/00

720 units

\$319.30

ALH Group Pty Ltd

Western Australia – Off Premise Data

Product Description	Size	Sales Volume	Per Unit Overcharge	Total Overcharge
KGB Black Russian Btl 3pk	330ml	24	0.02	0.48
KGB Black Russian Btl 3pk	330ml	4	0.05	0.20
KGB Can	440ml	13	0.75	9.75
KGB Can 4pk	440ml	1	3.00	3.00
Stoli Lemon Ruski	300ml	436	0.06	26.16
Stoli Lemon Ruski 24pk	300ml	7	1.43	10.01
Stoli Lemon Ruski 4pk	300ml	52	0.24	12.48
Stoli Lemon Ruski 6pk	300ml	61	0.36	21.96
Stoli Lemon Ruski 8pk	300ml	49	1.38	67.62
Strongbow Black Cider	345ml	3	0.04	0.12
Strongbow Lemon White Cider	345ml	66	0.03	1.98
Strongbow Lemon White Cider 6pk	345ml	8	0.20	1.60
Wild Peach Cooler	250ml	24	0.40	9.60
Wild Peach Cooler Cask	4lt	5	3.31	16.55
XLR8	330ml	144	0.30	43.20
XLR8 6pk	330ml	22	0.17	3.74
Total Sales 03/07/00 – 28/07/00		919		\$228.45

Extrapolated Data: 01/07/00 – 28/07/00

990 units

\$246.02

ALH Group Pty Ltd

South Australia – Off Premise Data

Product Description	Size	Sales Volume	Per Unit Overcharge	Total Overcharge
Glenfiddich Sing Malt Scotch	700ml	10	9.70	97.00
Schimmelpennick Mini Cigars		23	6.75	155.25
Don Alvarez Tequila	700ml	3	2.15	6.45
Chivas Regal Scotch	700ml	18	1.60	28.80
Miranda White Shiraz	750ml	8	1.33	10.64
Schimmelpennick Half Corona		14	1.25	17.50
Porphyry Sauternes	750ml	18	1.09	19.62
UDL Vodka & Lemonade Can	375ml	10	0.93	9.30
Wolf Blass Bilyara Cha Sem	750ml	4	0.75	3.00
Bacardi Cubano	275ml	26	0.72	18.72
Cockatoo Ridge Grenache Shir	750ml	18	0.47	8.46
Eaglehawk Cab Sauv	750ml	16	0.24	3.84
McWilliams Cream Port	750ml	5	0.18	0.90
McWilliams Cream Sherry	750ml	23	0.18	4.14
McWilliams Medium Dry Sherry	750ml	2	0.18	0.36
McWilliams RR Port	750ml	4	0.18	0.72
Chateau Yaldara Tawny Port	750ml	207	0.14	28.98
Mt Franklin Spring Water Bot	355ml	26	0.14	3.64
Orlando Jacobs Creek Shir Cab	375ml	84	0.12	10.08
Cadbury Hazelnut	150g	41	0.09	3.69
Kaiser Stuhl Rose Cask	4ltr	74	0.04	2.96
West End Draught Bottle Sin	750ml	3780	0.02	75.60
Coopers Stout Bottle Sgle	750ml	1531	0.02	30.62
Southwark Bitter Bottle Sin	375ml	764	0.01	7.64
Southwark Bitter Can Sgle	375ml	590	0.01	5.90
Southwark Bitter Bottle Sin	750ml	1141	0.01	11.41
Coopers Dark Ale Bottle Sin	375ml	181	0.01	1.81
Coopers Pale Bottle Sgle	375ml	1102	0.01	11.02
Hahn Ice Can Sgle	375ml	141	0.01	1.41
West End Export Bottle Sgle	375ml	403	0.01	4.03
West End Export Can Sgle	375ml	720	0.01	7.20
Smiths Chips BBQ	50g	137	0.01	1.37
Coopers Draught Can Sgle	375ml	556	0.01	5.56
Total Sales		11,830		\$599.12

RWO