



TRADE PRACTICES ACT 1974

Undertaking to the Australian Competition & Consumer Commission given for the purposes of section 87B

by

Geoffrey Colin Clegg

PERSON GIVING UNDERTAKING

This undertaking is given to the Australian Competition and Consumer Commission ("the Commission") by Geoffrey Colin Clegg ("Clegg") under section 87B of the *Trade Practices Act 1974* ("the Act").

BACKGROUND

On 13 July 1999, the Commission instituted Federal Court proceedings Q202 of 1999 against manufacturers and distributors of fittings and valves for ductile iron cement lined ("DICL") and plastic pipes used in water supply systems, irrigation systems and sewerage systems ("valves and pipe fittings") and individuals, including Geoff Clegg Enterprises Pty Ltd ACN 010 182 359 formerly Watergear Distributors Pty Ltd ("Watergear") and Clegg, a director of Watergear ("the proceedings"). The proceedings relevant to Watergear and Clegg involve price-fixing, agreements not to compete in respect of particular customers identified by the participants, and tender rigging in the supply of valves and fittings, in breach of sections 45(2)(a)(i) and 45(2)(a)(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, Watergear and Clegg have agreed to consent orders to recommend to the Court, which include Watergear paying a pecuniary penalty of \$100,000 within 28 days of the date of the order, an injunction restraining Watergear and Clegg from engaging or being involved in similar conduct for period of 3 years and Watergear and Clegg paying the Commission's costs of and incidental to the proceedings fixed in the sum of \$10,000 within 28 days of the date of the order.

Clegg has undertaken to personally pay any part of Watergear's penalty and costs, should it fail to do so. Clegg has also undertaken to use his best endeavours to operate Watergear in such a manner as to ensure that Watergear is able to meet its obligations under the orders to be recommended to the Court.

The Commission has agreed to accept the undertaking from Clegg under section 87B of the Act.

COMMENCEMENT OF UNDERTAKING

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

UNDERTAKINGS

2. Clegg undertakes:
 - (a) that he will use his best endeavours to ensure that Watergear complies in all respects with the orders agreed between Watergear and Clegg and the Commission to be recommended to the Court;
 - (b) to ensure that Watergear and/or himself pay the amount of pecuniary penalty and the Commission's costs of and incidental to the proceedings, within the time ordered by the Court.
3. Clegg 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.
4. Clegg acknowledges that this undertaking in no way derogates from any rights and remedies that may be available to any other person arising from the alleged conduct.

EXECUTED on the 18th day of August 2000.

IN WITNESS of these undertakings and this agreement:

.....
 Geoffrey Colin Clegg

ACCEPTED by the Australian Competition and Consumer Commission pursuant to Section 87B of the *Trade Practices Act 1974*.

.....
 (Professor Allan Fels)

Chairman

This 23rd day of August 2000