

TRADE PRACTICES ACT 1974

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

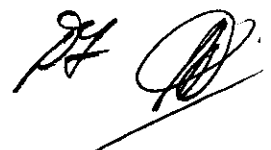
BY

ADVANCED HAIR STUDIO (FRANCHISING) PTY LTD (ACN 006 236 166)

1. This undertaking is given to the Australian Competition & Consumer Commission ("**Commission**") by Advanced Hair Studio (Franchising) Pty Ltd (ACN 006 236 166) ("**Advanced Hair Studio Franchising**") of 15-17 Lansdowne Street, East Melbourne, Victoria under section 87B of the *Trade Practices Act 1974* ("**Act**").
2. The Commission is a body corporate established by section 6A of the Act, and is responsible for taking action to enforce consumer protection and price exploitation provisions of the Act contained in part V and part VB.
3. Advanced Hair Studio Franchising is a trading corporation for the purposes of the Act and is duly incorporated pursuant to the laws of the State of Victoria.

BACKGROUND

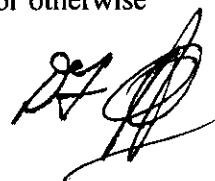
4. Advanced Hair Studio Franchising is a national provider of hair replacement technology and associated products.
5. In 1997 Advanced Hair Studio Franchising commissioned and adopted a trade practices compliance manual ("**Manual**") and, since then, it has regularly conducted training for its staff and franchisees based upon the Manual.
6. Prior to 1 July 2000, wigs and hair pieces attracted sales tax, unless item 86 of schedule 1 of the *Sales Tax (Exemptions and Classifications) Act 1992* applied.
7. On 22 June 2000 the Commission wrote to Advanced Hair Studio Franchising informing it that a consumer had stated to the Commission that an employee of Advanced Hair Studio Franchising had represented to the consumer that the effect of the New Tax System would be to increase the price of hair replacement products by 10%. The Commission expressed its concern that any representation of this type would, if made, contravene sections 52 and 53(e) of the Act and that if Advanced Hair Studio Franchising were to add the full 10% to the price of its goods or services on and after 1 July 2000, it may breach section 75AU of the Act.
8. On 28 June 2000 Advanced Hair Studio Franchising wrote to the Commission to provide it with the information sought by the Commission. Advanced Hair Studio Franchising outlined the steps it had taken and was taking in response to the New Tax System, including additional measures to ensure that representations of the type alleged to have been made (as referred in paragraph 7 above) would not be made, and to ensure that it would not contravene section 75AU of the Act.



9. On 28 June 2000 Advanced Hair Studio Franchising forwarded to each parent company manager, consultant and receptionist a memorandum in the form of attachment "A" to this undertaking.
10. On 29 June 2000 Advanced Hair Studio Franchising mailed to all of its existing clients a letter explaining the impact of the New Tax System on Advanced Hair Studio goods and services in the form of attachment "B" to this undertaking.
11. Advanced Hair Studio Franchising has been unable to confirm whether the alleged representation referred to in paragraph 7 was in fact made, nor by whom it may have been made.
12. Advanced Hair Studio Franchising has provided the Commission with lists of the recommended retail prices for its goods and services both before and after 1 July 2000.
13. The Commission does not allege that Advanced Hair Studio Franchising has in fact engaged in price exploitation in contravention of section 75AU of the Act.
14. Advanced Hair Studio Franchising has decided to give the Commission this undertaking under section 87B of the Act to address the Commission's concerns.
15. The Commission acknowledges that Advanced Hair Studio Franchising has promptly addressed the Commission's concerns and has co-operated with the Commission in the investigation and resolution of this matter.

UNDERTAKINGS

- A. Advanced Hair Studio Franchising undertakes that it will not represent any of the following:
 - (i) The effect of the New Tax System including the GST was to increase the price of hair replacement products by more than 10% from 1 July 2000;
 - (ii) A 10% GST component is payable by customers in addition to the wholesale sales tax that was previously payable on goods and services.
- B. Advanced Hair Studio Franchising undertakes that the memoranda and letters as detailed in paragraphs 9 and 10 above were sent on or about their respective dates.
- C. In order to:
 - (a) Demonstrate its commitment to a trade practices policy of compliance and to embed a culture of compliance throughout Advanced Hair Studio Franchising;
 - (b) Analyse and respond to the trade practices matters resulting in this undertaking;
 - (c) Identify risk areas for trade practices breaches and develop systems to eliminate or minimise these risks; and
 - (d) Provide practical and verifiable training for all relevant management and employees so that breaches and potential breaches may be prevented or otherwise detected, referred and acted upon



Advanced Hair Studio Franchising will continue to maintain and update at its own expense its trade practices compliance program and, in particular, it will within 14 days of signing this undertaking:

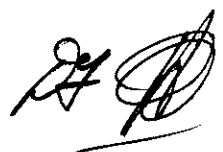
- (i) Send a message from the Chief Executive Officer to all Advanced Hair Studio Franchising managers, employees, franchisees and agents confirming that Advanced Hair Studio Franchising is committed to compliance with the Act and to the conduct of its business in accordance with the Manual. This statement will also indicate that there are sanctions for non-observance of the Act.
 - (ii) Commission the preparation of any amendments to the Manual that may be appropriate as a result of the introduction of part VB of the Act or otherwise.
 - (iii) Advise the Commission of the name and contact address of the Executive Director or Senior Executive designated by Advanced Hair Studio Franchising as its compliance manager with overall responsibility for trade practices compliance.
- D. Advanced Hair Studio Franchising will within 60 days of signing this undertaking provide the Commission with a copy of the amended Manual. Advanced Hair Studio Franchising will make any changes reasonably requested by the Commission to the amended Manual within 30 days of that request.
- E. Advanced Hair Studio Franchising will within 60 days of receipt of the Commission's approval of the amended Manual:
- (i) Adopt the amended manual including establishing the procedures for ensuring compliance breaches are reported to the compliance manager promptly and a record of all compliance breaches is maintained.
 - (ii) Ensure all relevant Advanced Hair Studio Franchising employees (including consultants) and franchisees are provided with a copy of the amended manual.
 - (iii) Arrange for all relevant Advanced Hair Studio Franchising employees (including consultants) and franchisees to attend a trade practices compliance seminar to be conducted by suitably qualified compliance professional(s).

EFFECTIVE DATE

16. This undertaking will be effective immediately upon acceptance by the Commission.

ACKNOWLEDGEMENTS

17. Advanced Hair Studio Franchising acknowledges that the Commission will make this undertaking available for public inspection on the Commission's register of undertakings given under section 87B of the Act.
18. Advanced Hair Studio Franchising further acknowledges that this undertaking in no way derogates from the rights and remedies available to any other person arising from the matters to which reference has been made.



IN WITNESS OF THIS UNDERTAKING

The common seal of Advanced Hair Studio (Franchising) Pty Ltd (ACN 006 236 166) is duly affixed and witnessed by:



Director

CARL HOWELL
(name printed)

Director/Secretary

DENIS FLAHERTY
(name printed)

Executed by the above company on First August 2000.

Accepted by THE AUSTRALIAN
COMPETITION AND CONSUMER
COMMISSION under section 87B of the
Trade Practices Act 1974:

Professor Allan Fels, Chairman

Dated:

16 August 2000

AHS

ADVANCED HAIR STUDIO OF AUSTRALIA PTY. LTD. A.C.N. 005 784 298
15-17 Lansdowne Street, East Melbourne, VIC 3002 Australia
Phone: (03) 9662 3011 Fax: (03) 9662 2584



Attachment A

To: All Parent Company Managers and Consultants
From: Mike Beuermann
Date: 28 June 2000
Subject: Goods and Services Tax (GST) and the New Tax System

Ladies and Gentlemen:

The GST commences on 1 July 2000. I wish to clarify any misunderstandings or confusion about the effect of the GST upon the AHS recommended retail prices for all Goods and Services sold by AHS.

AHS company policy is:

- a. The price of all AHS products and services are to be quoted as a single price, INCLUSIVE of GST.
- b. No Manager or Consultant is to quote a client a price for AHS Goods and Services exclusive of the GST.
- c. No Manager or Consultant is to state to AHS clients that the implementation of the GST has resulted in an across the board increase of 10% on the AHS product range and services supplied. This is untrue.

AHS has calculated its post 1 July 2000 price list for AHS products and services supplied by AHS by taking into account the abolition of the wholesale sales tax and other indirect taxes. A copy will follow. These prices will apply to all new contracts from today for goods and services to be supplied on or after 1 July 2000.

I recommend that you read this memorandum carefully.

The Trade Practices Act 1974 (TPA), has been amended and confers a number of Statutory responsibilities on the Australian Competition and Consumer Commission (ACCC) including power to deal with corporations and individuals who breach Part VB of the TPA, by engaging in price exploitation in relation to the introduction of the GST and the new tax system.

The Trade Practices Act imposes significant monetary penalties for the contravention of Part VB of the TPA. Penalties for breaching the price exploitation provisions of the TPA are substantial. The Federal Court of Australia can impose fines of up to \$10 million for corporations and \$500,000 for individuals.

Attached is the letter sent to all parent company clients explaining how the GST will affect our pricing. Please read it carefully.

This is a serious matter, we expect you to comply with the law. If you do not understand this letter, or wish to obtain further information about the new tax system legislation or TPA, please ring Denis Flaherty, Mark Forsyth or myself.

Mike Beuermann
Chief Executive Officer

AHS

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Attachment B

29 June 2000

Dear

As you are aware the Goods and Services Tax (GST) and the New Tax System is being introduced from 1 July 2000 in Australia. From 1 July the GST replaces the wholesale sales tax and some other indirect taxes with a 10% GST.

AHS is required by law to pay the Australian Tax Office the 10% GST in relation to all taxable supplies of goods and services made by AHS from 1 July 2000. AHS will adjust its pricing for all products and services to be supplied from 1 July 2000 to take account of the GST liability.

Some advice may have given you the impression that the AHS product range and services are all subject to a 10% across the board price increase due to GST. This was not intended to be the case.

The impact of the GST on your existing AHS services and programs is explained below.

The impact of the GST on services and accessories from 1 July will vary according to the various services and accessories with no cost increasing by the full 10% (except for the surcharge on an express order). Some items will in fact reduce in price.

Strand-by-Strand and Amorehair

For all contracts entered into prior to the date of this letter, regardless of when the product and/or service is to be supplied, the quoted price will not increase as a result of the introduction of the GST, even though AHS will have a GST liability on these supplies after 1 July 2000.

If, as a result of the introduction of the new tax system, there is a cost reduction of any component of the contract, such as the impact of the removal of sales tax on units, to the extent this is not offset by the introduction of the GST, the saving will be passed on to customers.

NMP Programs and Laser Therapy Programs

For all contracts entered into prior to September 1999, regardless of when the services and/or accessories are to be supplied, the quoted price will not increase as a result of the introduction of the GST, even though AHS will have a GST liability on these supplies after 1 July 2000.

If, as a result of the introduction of the new tax system, there is a cost reduction of any component of the contract, such as the impact of the removal of sales tax on hair units, to the extent this is not offset by the introduction of the GST, the saving will be passed on to customers.

For contracts entered into from on or about September 1999, these contracts included the following terms:

Notwithstanding the effect of any other provision of this contract, if any supply made pursuant to this contract is a taxable supply for the purposes of a New Tax System (Goods and Services Tax) Act 1999 ("GST legislation") the amounts expressed as payable by the customer under this contract ("the contract price") will be reduced by the amount of wholesale sales tax, if any, currently included in those amounts and the resultant reduced value ("the adjusted contract price") will be the value of that supply as defined in the GST legislation. The customer shall also be required to pay to AHS the GST payable on that supply ("the GST amount"). The total of the adjusted contract price and the GST amount will be payable by the customer to AHS and shall be the total consideration for the supply.

AHS is reviewing existing client contracts to determine whether any price adjustment is required due to the introduction of GST and the new tax system. Any adjustment will vary for each contract dependent on the period remaining until its expiry and the extent to which goods and services have been supplied up to 30 June 2000. Separate advice will be mailed to all clients when an adjustment is required.

Should you have any queries regarding your contract terms, please contact Suzanne Dekyvere, our GST coordinator by phone on 03 9662 3011 or by facsimile 03 9662 2584 and she will be happy to provide advice on your particular circumstances.

Yours sincerely

Mike Beuermann
Chief Executive Officer

