

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

D01/11655



**BY**

**SONY AUSTRALIA LIMITED (ACN 001 215 35)**

**PERSON GIVING UNDERTAKING**

This undertaking is given to the Australian Competition and Consumer Commission ('the Commission') by Sony Australia Limited ('Sony') (ACN 001 215 354) of 33-39 Talavera Road, North Ryde, in the State of NSW under section 87B of the *Trade Practices Act* ('the Act').

**BACKGROUND**

1. Sony and its associated companies are companies whose principal activities include the importation and distribution of audio and video equipment for consumer, professional and broadcast applications.
2. During the period of approximately August 1998 and January 2000, Sony caused to be published and made available to consumers the sales brochures "Sony 1998-99 handycam" and "Sony 1999 Digital 8 handycam ('the Brochures')". A complaint was received by the Commission on 8 March 2000 in relation to the represented horizontal resolution performance of "440" and "over 500 lines" of the XR and Digital 8 systems and colour pictorial representations of the Night Shot function deployed in Sony handycams ('the Representations').
3. The Commission wrote to Sony alleging conduct in breach of sections 52, 53(c) and 55 of the Act and alerting it to the Commission's view that the Representations in the Brochures:
  - a) are not sufficient to enable consumers to distinguish between the resolution potential of the system, as advertised, and the realisable resolution performance of the handycams in which the XR and Digital 8 systems are deployed;
  - b) misrepresent the performance characteristics and quality of recording of the Night Shot function.
4. On 24 October 2000, Sony informed the ACCC that Sony was willing to offer compensation to those consumers who relied on the Representations and has written to its dealers to ask that they withdraw from circulation any remaining copies of the Brochures.
5. The parties have agreed to resolve this matter by the giving and accepting of an undertaking in the terms contained herein.

## **COMMENCEMENT OF UNDERTAKING**

This undertaking comes into effect when:

- a) the undertaking is executed by Sony; and
- b) the Commission accepts the undertaking so executed.

## **UNDERTAKING**

Sony hereby gives the following undertakings to the Commission for the purposes of section 87B of the Act:

1. Sony will, at its own expense, place an advertisement on the weekend of 3 March 2001 ('the Advertisement') in the form of a confidential survey in all major daily newspapers in each State of Australia for the purposes of determining who may have relied on the Representations in the Brochures. The proposed form, design and content is to be done by an independent suitably qualified agency or person approved by the Commission.
2. Sony will provide appropriate compensation to those consumers identified in Item 1 above in accordance with the circumstances, including the date of purchase, of handycams the subject of the Representations.
3. Sony will provide a report to the Commission in respect of Items 1 and 2 above to the Commission by 15 April 2001.
4. Sony will conduct an independent review of Sony's Trade Practices Compliance Program by a person approved by the Commission by 6 April 2001.
5. Sony will provide a report to the Commission in respect of Item 4 above within one month of completion of the independent review.

## **ACKNOWLEDGMENTS**

1. Sony 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. Sony acknowledges that the Commission may issue a media release about this undertaking and may, from time to time, publicly refer to the undertaking.
3. Sony 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.
4. Sony acknowledges that a copy of the Advertisement, as published, will be held with this undertaking on the public register.

IN WITNESS of these undertakings:  
The COMMON SEAL of Sony was  
Hereunto affixed in the presence of:



.....  
Director/Secretary

This 22 day of FEBRUARY, 2001

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

.....  
Professor Allan Fels  
Chairperson

This 1 day of March 2001

61 2 99226742

**CONSUMER  
CONTACT**

February 6, 2001

**FAX TO: IRIS SAMPSON  
FNL**

Dear Iris,

**RE: SONY HANDYCAM CONSUMER AD**

Thank you for your briefing. We suggest the following questions:

**HAVE YOU EVER PURCHASED A SONY  
HANDYCAM CAMERA ?**

If so, please write to us, with answers to these questions:

When did you buy it ? \_\_\_\_\_ month \_\_\_\_\_ year

What model did you buy ?

Was your decision to buy a Sony Handycam influenced by any kind of  
advertising or brochures produced by Sony ? Yes / No

What product features influenced your decision to buy this particular  
model ?

SONY IS CONSISTENTLY INTERESTED IN GETTING CONSUMER FEEDBACK SO....

Please include your name, address and phone number and send to:

**CONSUMER CONTACT, 34/110 Sussex St., Sydney NSW 2000** by 01/04/01

Regards



**Barbara Riley-Smith**  
Managing Director.

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