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TRADE PRACTICES ACT 1974

**UNDERTAKING TO THE AUSTRALIAN COMPETITION AND CONSUMER
COMMISSION GIVEN FOR THE PURPOSES OF SECTION 87B**

BY

**EYELINES TASMANIA PTY LTD
ACN 079 108 633**

PERSON GIVING UNDERTAKING

1. This undertaking is given to the Australian Competition and Consumer Commission ("the Commission") by Eyelines Tasmania Pty Ltd ACN 079 108 633 ("Eyelines") of 383 Main Road, Glenorchy, in the State of Tasmania, under section 87B of the Trade Practices Act 1974 ("the Act").

BACKGROUND

2. Eyelines is incorporated in the State of Tasmania with its head office in Glenorchy, Tasmania. Eyelines is an optical dispenser with eight stores throughout Tasmania.
3. Eyelines has advertised on Hobart radio station HO-FM for several years. On 4 March 2002, an advertisement was broadcast on HO-FM for Eyelines in the form of a live-read by HO-FM breakfast show presenters representing that "Eyelines is the only Tasmanian owned and operated optical provider. It has 8 stores state wide." A number of other representations were subsequently made during the live-read advertising which lasted an estimated 30 – 45 seconds.
4. After the broadcast of the above advertisement, Eyelines instructed HO-FM to change the above representation to: "Eyelines is the only Tasmanian owned and operated optical provider with 8 stores state wide". The amended representation was subsequently broadcast on HO-FM in the form of 5 live-read advertisements over a period of approximately two weeks during March 2002.
5. Eyelines is not the only Tasmanian owned and operated optical provider, nor is it the only Tasmanian owned and operated optical provider with 8 stores state wide. Following an investigation, the Commission considered these representations by Eyelines to likely constitute conduct in contravention of section 52 of the Act which prohibits misleading or deceptive conduct, or conduct likely to mislead or deceive.
6. In May 2002, Eyelines offered the Commission the following court enforceable undertaking pursuant to section 87B of the Act.

[Handwritten signature] *[Handwritten initials]*

UNDERTAKING

7. In consequence of the matters referred to above, Eyelines gives the following undertaking to the Commission pursuant to section 87B of the Act:
- A. That Eyelines will cause to have broadcast at its own expense on HO-FM, within 30 days of the acceptance date of this undertaking, a corrective advertisement in the terms of Annexure 1 hereof and further that such corrective advertising be:
- (i) pre-recorded and approved by the Commission prior to broadcast;
 - (ii) broadcast on 6 separate days over a two week period;
 - (iii) broadcast during the Monday to Friday HO-FM breakfast show at similar times to the 6 Eyelines advertisements broadcast on HO-FM during March 2002;
 - (iv) of 30 – 45 seconds duration for each corrective advertisement.
- B. Eyelines will take all reasonable steps to ensure that its directors, staff and agents are made aware of the provisions of the *Trade Practices Act*, especially in regard to the misleading and deceptive conduct provisions. This is to include Eyelines engaging a solicitor or other person with recognised trade practices knowledge to provide, within two months of the acceptance date of this undertaking, a trade practices compliance training seminar of not less than 1 hour duration to Eyelines' managers.

COMMENCEMENT OF UNDERTAKING

8. This undertaking comes into effect when:
- (a) the undertaking is executed by Eyelines; and
 - (b) the Commission accepts the undertaking so executed.


ACKNOWLEDGMENTS


9. Eyelines acknowledges the Commission's right to make this undertaking available for public inspection and notes that the Commission will, at its discretion, from time to time, publish and publicly refer to this undertaking.
10. Eyelines acknowledges and accepts that this undertaking in no way derogates the rights and remedies available to any person arising from Eyelines' conduct.

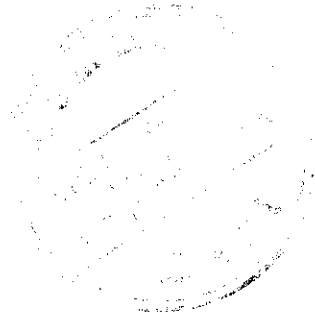


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IN WITNESS of these undertakings and its agreement the common seal of Eyelines Tasmania Pty Ltd, ACN 079 108 633 was hereunto affixed by authority of the Board of Directors in the presence of:

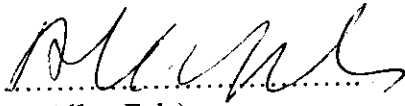

.....
Director


.....
Director



This day of 2002

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

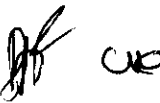

.....
(Professor Allan Fels)

Chairman

This ...31... day of ...May... 2002

DRAFT CORRECTIVE RADIO ADVERTISEMENT

- FOLLOWING IS AN APOLOGY FROM EYELINES TASMANIA PTY LTD.
- DURING MARCH, EYELINES ADVERTISED ON HO-FM THAT IT WAS THE ONLY TASMANIAN OWNED AND OPERATED OPTICAL PROVIDER, AND SUBSEQUENTLY, THAT IT WAS THE ONLY TASMANIAN OWNED AND OPERATED OPTICAL PROVIDER WITH EIGHT STORES STATE WIDE.
- FOLLOWING AN APPROACH BY THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION, EYELINES ACCEPTS THAT THERE IS IN FACT A NUMBER OF OTHER TASMANIAN OWNED AND OPERATED OPTICAL PROVIDERS, INCLUDING ONE WITH EIGHT STORES STATE WIDE.
- EYELINES APOLOGISES FOR ITS MISTAKE.
- EYELINES TAKES ITS RESPONSIBILITY TO ADHERE TO THE TRADE PRACTICES ACT VERY SERIOUSLY AND REGRETS ANY MISLEADING STATEMENTS THAT IT MAY HAVE INADVERTENTLY MADE.

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