



TRADE PRACTICES ACT 1974

UNDERTAKING TO THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION GIVEN FOR THE PURPOSE OF SECTION 87B OF THE TRADE PRACTICES ACT 1974

BY

BY CREATIVE BRANDS PTY LTD

(A.C.N. 052 483 780)

PERSONS GIVING THE UNDERTAKING

1. This undertaking is given to the Australian Competition and Consumer Commission ('the Commission') by Creative Brands Pty Ltd ACN 052 483 780 ('Creative Brands'), of 30 Bando Road Springvale in the State of Victoria under section 87B of the *Trade Practices Act* 1974 ('the Act')

BACKGROUND

2. Creative Brands is incorporated in the State of Victoria and one of its principal activities, prior to 2000, included importing, wholesaling and retailing sunglasses and fashion spectacles.
3. The Commission is responsible for ensuring compliance with mandatory consumer product standards under the Act. The mandatory product safety standard applicable to sunglasses and fashion spectacles is Australian Standard 1067.1-1990, as amended ('the Standard').
4. As part of the Commission's national monitoring programme for compliance with the Standard, on 7 November 2002 Commission staff purchased a pair of fashion spectacles ('the Spectacles') from a Cost Plus store located within Kwinana, Perth, Western Australia.
5. The Spectacles are marked with code number 569699 on the inner left arm. The Spectacles have rose colour tints and a matt purple frame. A folded label was attached to the Spectacles. The outer side of the label states, "Fashion spectacles. These spectacles are not intended to provide protection against sun glare". The inner side of the label provides a twelve month guarantee and states that Unispex is a product of Creative Brands Pty Ltd ('Creative Brands') (A.C.N. 052 483 780). The label implies that the Spectacles comply with safety requirements Australian Standard AS 1067.1 -1990.
6. On the 20 January 2003, the Spectacles were tested by Unisearch Optics and Radiometry ('Unisearch') in accordance with the Standard and failed to meet certain requirements of the Standard. The test results indicate that the Spectacles are incorrectly labelled as 'Fashion Spectacles' and did not provide the warning "Not suitable for persons with colour vision deficiencies. These lenses will further distort their colour perception."

7. The Commission contends that Creative Brands breached section 65C of the Act by supplying the Spectacles, which do not comply with the Standard.
8. Creative Brands acknowledges that it supplied the Spectacles which were incorrectly labelled and not in accordance with the Standard and consequently that it may have contravened section 65C of the Act.
9. Creative Brands has ceased the sale and supply of the sunglasses bearing code number 569699 and 569099 (the Sunglasses) .It has notified all retailers to whom it supplied the Sunglasses to remove the Sunglasses from sale and return them to Creative Brands for remedial action.

UNDERTAKINGS

- 11 In consequence of the matters referred above, Creative Brands gives the following undertaking to the Commission for the purpose of section 87B of the Act.

Creative Brands undertakes that:

- (a) it has ceased the supply or sale of the Sunglasses which do not comply with the Standard;
- (b) it has, by its directors, servants or agents, advised retailers to whom the Sunglasses have been supplied to ensure that the Sunglasses have been withdrawn from sale and returned to Creative Brands for remedial action;
- (c) it will advise the Commission within seven days of the completion of, and the results of, the retail recall process;
- (d) it has placed product recall notices in the major capital city daily newspapers of those Australian states and territories in which the Sunglasses were distributed by Creative Brands;
- (e) it will provide refunds to all parties who return the Sunglasses;
- (f) it will institute and maintain a Trade Practices Compliance program with an emphasis on consumer protection and product safety issues and designed to create a culture of compliance throughout Creative Brands and to prevent, so far as is reasonably possible, any contraventions of the Act by Creative Brands, its directors, servants or agents howsoever.

COMMENCEMENT OF UNDERTAKING

12. This undertaking comes into effect when;
 - (i) This undertaking is executed by Creative Brands; and
 - (ii) The Commission accepts the undertaking so executed.

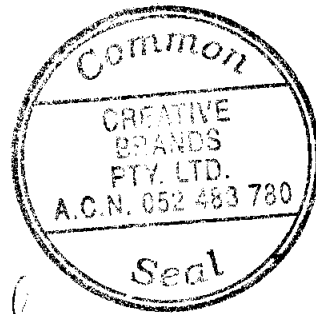
ACKNOWLEDGMENTS

13. Creative Brands acknowledges the Commission's right to make this undertaking available for public inspection.
14. Creative Brands acknowledges that the Commission may issue a media release in relation to this undertaking and may from time to time publicly refer to the undertaking.
15. Creative Brands acknowledges that this undertaking in no way derogates from the rights and remedies available to any other person arising from the stated conduct.

IN WITNESS of this undertaking and its agreement, Creative Brands Pty Ltd, ACN 052 483 780, executes this agreement by authority of the board of directors in the presence of:

This 9TH day of MAY 2003

THE COMMON SEAL of)
 CREATIVE BRANDS PTY LTD)
 was affixed in accordance)
 with its Articles of Association:)



.....
 Director/Secretary

.....
 Name (printed):

.....
 Director SECRETARY

.....
 Name (printed):

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

Chairperson

This 26 day of MAY 2003