

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

FILE No  
DOC: 004/6588-14830  
MARCH 2004

BY

**THE WAREHOUSE GROUP (AUSTRALIA) PTY LIMITED (ACN: 003 038 702),  
FORMERLY COLONEL CLINTS CRAZY BARGAIN STORES PTY LIMITED  
(REFERRED TO IN THIS VARIATION AS "THE WAREHOUSE")**

**BACKGROUND**

- (1) On 29 November 2000 the Commission accepted an Undertaking offered by Colonel Clints Crazy Bargains Pty Ltd (now The Warehouse Group (Australia) Pty Limited), ACN 003 038 702, ("The Warehouse"), in accordance with section 87B of the *Trade Practices Act 1974* ('the Act').
- (2) Clause (9)(ii)(v) of the Undertaking requires that The Warehouse extend the initial auditing and reporting requirements of its existing Trade Practices compliance program (as per the section 87B undertaking provided to the Commission by The Warehouse, on the 13 August 1999, in respect of the "antique style wall phone") for an independent audit to be undertaken once a year for an additional three years. The first independent audit required under the undertaking is to be conducted in August 2003, and it is envisaged that the final independent audit will be conducted in August 2005.
- (3) Clause (13) I of the Undertaking provided to the Commission by The Warehouse in respect of the "antique style wall phone" on 13 August 1999 requires, amongst other things, that The Warehouse will cause, at its own expense, an audit of its compliance program and this audit will be conducted by a suitably qualified compliance professional ("the auditor") who is independent of The Warehouse and acceptable to the Commission.
- (4) Clause (13) K of the Undertaking provided to the Commission by The Warehouse in respect of the "antique style wall phone" on 13 August 1999 requires, amongst other things, that the Commission shall review the recommendations contained in each audit report.
- (5) The Warehouse has requested that the due date for providing a copy of the audit reports to the Commission be amended and set at 31 January 2004, 31 January 2005, and 31 January 2006. The requested amendments are due to the implementation, by The Warehouse, of an improved compliance program in October 2002 which resulted, with the consent of the Commission, in the audit review for that period being postponed until December 2002 and the subsequent report then being provided to the Commission on 20 February 2003.

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- (6) To ensure that the spirit of the Undertaking is not altered The Warehouse has offered the Commission this Variation to the Undertaking of 29 November 2000 in accordance with section 87B(2) of the Act.

#### **COMMENCEMENT OF VARIATION OF UNDERTAKING**

- (7) This Variation comes into effect when:
- i) the Variation is executed by The Warehouse Group (Australia) Pty Limited;
  - and
  - ii) the Commission accepts the Variation so executed.

#### **VARIATION TO UNDERTAKING**

1. Amend Clause (9) (ii) (v) of the Undertaking accepted on the 29 November 2000 to read:

The Warehouse Group (Australia) Pty Limited shall cause, at its own expense, an independent audit of its compliance program to be conducted by:

- A 31 December 2003
- B 31 December 2004
- C 31 December 2005

The audits will be conducted by a suitably qualified compliance professional (“the auditor”) who is independent of The Warehouse Group (Australia) Pty Limited and acceptable to the Commission.

The auditor will provide copies of the audit reports to the Commission within one month of completion of the audits, with such copies to be provided, respectively, by:

- A 31 January 2004
- B 31 January 2005
- C 31 January 2006

#### **ACKNOWLEDGEMENTS**

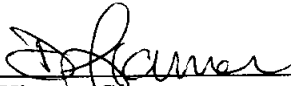
The Warehouse Group acknowledges the Commission’s right to make the Undertaking and this Variation available for public inspection.

The Warehouse Group acknowledges and accepts that the Undertaking and this Variation in no way derogate the rights and remedies available to any person arising from the Warehouse Group’s alleged conduct.

**IN WITNESS TO THIS VARIATION**

**SIGNED for and on behalf of  
The Warehouse Group (Australia) Pty Ltd  
(ACN 003 038 702)  
in the presence of:**

) ~~Jim Petrides~~  18/12/03  
) **Director**


  
\_\_\_\_\_  
Witness Signature

JIM PETRIDES.  
Please print name

Dominique De Francesco.  
Please print name

18th December 2003.  
Date of signing

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

Chairman: 

This 3<sup>rd</sup> day of March 2004