



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

**GIVEN BY**

**ATTICUS PTY LTD (ACN 010 464 776) trading as MOBILE POOL CARE (QLD),  
Unit 4, 76 Sumners Road, Sumner Park, Brisbane in the State of Queensland**

**BACKGROUND**

1. Atticus Pty Ltd, ACN 010 464 776 trading as Mobile Pool Care (Qld) (the Company) was a franchisor selling franchises in selected areas of Brisbane for swimming pool cleaning and maintenance.
2. Following an investigation by the Australian Competition and Consumer Commission (the Commission), the Commission reached the view that the Company was engaging in conduct in contravention of section 47(6) of the Trade Practices Act 1974 (the Act). In reaching this view the Commission had regard to the following:
  - (a) compulsory membership of The Australasian Franchisees Association Limited was a condition of the franchise licence agreement with the Company; and
  - (b) the Company required franchisees to refer all swimming pool pump repairs to a third party nominated by the Company.
3. The Commission contends that the Company supplied or offered to supply franchises on condition that persons to whom the Company supplied or offered to supply the franchises would acquire the services of nominated third parties in contravention of section 47 of the Act.

**UNDERTAKINGS**

4. The Company on behalf of itself and any subsidiaries, agents, or employees gives the following undertakings to the Commission for the purposes of section 87B of the Act:
  - (a) in respect to any future sales of franchises, the Company will not supply or offer to supply to persons on condition that the person also acquire the services of a nominated Association or pool pump repairer; and
  - (b) the Company will not include in its franchise agreements any reference that membership of a nominated Association is compulsory; and

(c) within 30 days of the date of acceptance of these undertakings by the Commission, notify all franchisees, agents and employees of the Company of the terms of these undertakings; and

(d) the Company further undertakes that within 45 days of the date of acceptance of these undertakings by the Commission, it will advise the Commission as to all actions it has taken and what procedures it has implemented to comply with these undertakings and the results thereof.

### ACKNOWLEDGMENTS

5. The Company acknowledges that the Commission will make these undertakings available for public inspection.
6. The Company acknowledges that the Commission may publicly refer to these undertakings.
7. The Company acknowledges and accepts that these undertakings in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

IN WITNESS OF THESE UNDERTAKINGS

THE COMMON SEAL OF )  
ATTICUS PTY LTD (ACN 010 464 776) )  
was hereunto affixed by authority )  
of the Board of Directors previously )  
given in the presence of:



JILL BROCKLEBANK  
DIRECTOR

This 12<sup>th</sup> day of December 1995.

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

[Handwritten Signature]  
CHAIRMAN

This 17 day of January 1995.