

96/30A

1

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

**GIVEN BY**

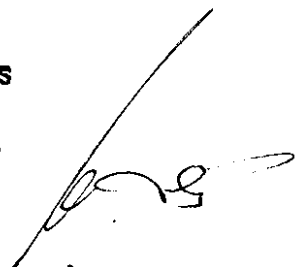
**VITA PACIFIC LIMITED (ACN 004 919 171)  
of 97-107 Canterbury Road, Kilsyth, in the State of Victoria**

**1. BACKGROUND**

- 1.1 Vita Pacific Limited, ACN 004 919 171, ("the Company") as part of its business activities, is an importer, manufacturer and wholesaler of bedding and manchester.
- 1.2 Following an investigation, the Australian Competition and Consumer Commission (the Commission) contends that the Company supplied, or offered to supply, to the public bedding ensembles under the 'MANHATTAN' brand in packaging which contained a representation that the bedding items in the ensemble were made in Australia, whereas the fitted sheet, the flat sheet, and the matching pillow cases in the ensemble were made in Pakistan.
- 1.3 The Commission contends and the Company admits that the use on that packaging of the words "PROUDLY MADE IN AUSTRALIA" where the associated bedding items were in fact made in Pakistan is a false or misleading representation as to the origin of the bedding items in contravention of section 53(eb) of the *Trade Practices Act 1974* ("the Act").

**2. UNDERTAKINGS**

- 2.1 Vita Pacific Limited gives the following undertakings, limited to three years duration in all things, to the Australian Competition and Consumer Commission for the purposes of section 87B of the *Trade Practices Act, 1974*:
  - (a) commencing immediately the company will not supply or offer to supply to any person a bedding ensemble labelled or otherwise represented as containing items made in Australia where such bedding items are not made in Australia; and
  - (b) within 7 days hereof, if it has not already done so, the company will re-label reserve stocks of the said bedding ensembles which are held within the control of the company so as to correct the alleged misleading or deceptive representation; and
  - (c) within 7 days hereof, if it has not already done so, the company will notify K-Mart and any other retailer to whom the bedding ensembles have been sold or supplied of these undertakings and make best efforts, at its own cost in all things, to re-label, replace, or recall the



96/30A:2

2

said bedding ensembles so as to correct the alleged misleading or deceptive representation; and

- (d) within 7 days hereof cause an advertisement, of a form and content satisfactory to the Commission, to be prominently published in *The Australian* newspaper setting out the effect of these undertakings, including a correction of the said misrepresentation, and inviting all purchasers of the product that, should they wish to do so, they may return the product to the Company or to the retailer and, without evidence or proof of purchase, receive at the Company's expense a full refund of the purchase price; and
- (e) within 30 days hereof advise the Commission in writing as to all actions the Company has taken and what procedures it has implemented to comply with these undertakings, and the results thereof to that time, and
- (f) within 30 days hereof the Company shall pay the sum of \$3,000 (Three Thousand Dollars) to the Australian Competition and Consumer Commission in compensation for its estimated legal and investigation costs relating to this matter.
- (g) as a subsidiary of the Pacific Dunlop Group of Companies, the Company will continue to participate in the Trade Practices corporate compliance program established for that Group .

**3. ACKNOWLEDGEMENTS**

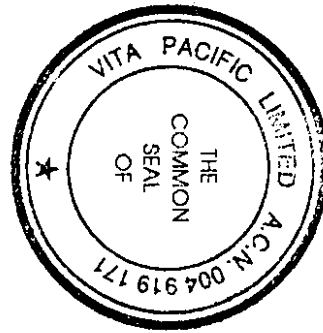
- 3.1 The Company acknowledges that the Australian Competition and Consumer Commission will make this undertaking available for public inspection.
- 3.2 The Company acknowledges that the Australian Competition and Consumer Commission will from time to time publicly refer to the undertaking.
- 3.3 The Company 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.

9630A:3

3

IN WITNESS OF THESE UNDERTAKINGS

THE COMMON SEAL OF  
VITA PACIFIC LIMITED  
was hereunto affixed by authority  
of the Board of Directors  
previously given in the presence of:



*Alan D. Moore*  
DIRECTOR / Company SECRETARY

*[Signature]*  
DIRECTOR

This day of 1996.

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

*[Signature]*  
CHAIRMAN

This 16 day of July 1996.



VITA PACIFIC  
MANHATTAN  
BEDDING ENSEMBLES

**SOLD IN KMART STORES**

Vita Pacific Limited wishes to advise the public that the Manhattan Bedding Ensemble Set (comprising two sheets, two pillow cases for Double/Queen size or one for single bed size and a comforter) sold in Kmart stores between January 1996 and May 1996 incorrectly stated on the packaging that the set was made in Australia. Although the comforter was made in Australia, the sheets and pillow cases were, as actually labelled on the inside packaging, made in Pakistan.

Vita Pacific apologises for any inconvenience caused and invites any dissatisfied purchaser of the Bedding Ensemble to return it to Vita Pacific for a full refund.

VITA PACIFIC LIMITED  
97-107 Canterbury Road, Kilsyth Vic 3137  
Telephone (03) 9212 6600