



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

BY

**SOUTH PACIFIC INDUSTRIAL PTY LTD
(A.C.N 097 900 242)**

PERSONS GIVING THE UNDERTAKING

1. This undertaking is given to the Australian Competition and Consumer Commission ("the Commission") by South Pacific Industrial Pty Ltd ACN 097 900 242 ("the Company"), trading as South Pacific Industrial of Unit 24/7 Anella Place, Castle Hill in the State of New South Wales under section 87B of the *Trade Practices Act 1974* ("the Act").

BACKGROUND

2. The Company supplies electrical boat winches, power inverters and battery chargers from its premises in Castle Hill, NSW.
3. The company imported the component parts for its Breeze 700H electric winch from Taiwan. It performed some minor finishing work on some parts, prior to assembling them into the winch housing, and sealing the parts and casing.
4. The Company acknowledges the Commission's concern that the work performed by the Company in preparing and assembling parts for the winches was unlikely to be sufficient to allow the Company to legitimately claim the winches in question were made in Australia. The Company acknowledges the Commission's concern that the Company's representations during 2003 were likely to mislead consumers as to the origin of the winches in question.

UNDERTAKING

5. In consequence of the matters referred to above, the company hereby undertakes for the purposes of section 87B of the Act that the Company:
 - (i) will not represent that the Breeze 700H winch is of Australian origin, and will cause to remove all such representations from its packaging, promotional material and websites;
 - (ii) will use its best efforts to advise resellers of the Breeze 700H winch that the winch is not made in Australia, and instruct each such reseller to remove and/or stop any such representation;
 - (iii) will not represent that goods the Company supplies are made in Australia unless it has first established, by conducting all necessary enquiries and calculations, that the goods meet the defence test for country of origin claims in s65AB of the Act, namely that:

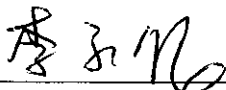
- a. the goods have been substantially transformed, as defined in s65AE of the Act, in Australia; and
 - b. 50% or more of the cost of manufacturing the goods is attributable to manufacturing processes that occurred in Australia;
- (iv) will use its best efforts to cause to be removed from all web sites maintained by other persons or organisations any representations that make reference to the Australian origin of any goods it supplies, unless it has first established, by conducting all necessary enquiries and calculations, that the goods meet the defence test for country of origin claims in s65AB of the Act;
 - (v) will for a period of six months following the date of acceptance of this undertaking, include a statement on its website disclosing the matters the subject of this undertaking;
 - (vi) will cause its director and manager to attend a Trade Practices Compliance seminar relating to the consumer protection provisions of the Act within three months of the acceptance of this undertaking.

ACKNOWLEDGEMENTS

6. The Company acknowledges and accepts:

- (i) the Commission's right to make this undertaking available for public inspection and notes that the Commission may, at its discretion, from time to time, publish and publicly refer to this undertaking.
- (ii) that this undertaking in no way derogates the rights and remedies available to any person arising from its conduct.

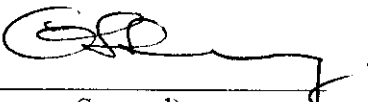
Signed by



Sole Director and Secretary

This 12 day of Oct, 2004

Accepted by the Australian Competition and Consumer Commission
pursuant to Section 87B of the Trade Practices Act 1974



(Graeme Samuel)
Chairperson

This 21st day of October 2004