



## TRADE PRACTICES ACT 1974

### UNDERTAKING TO THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION GIVEN FOR THE PURPOSE OF SECTION 87B

BY

**JAYCO CORPORATION PTY LTD**

(ACN 005 266 991)

#### PERSONS GIVING THE UNDERTAKING

1. This undertaking is given to the Australian Competition and Consumer Commission (the ACCC) by Jayco Corporation Pty Ltd ACN 005 266 991 (Jayco) of 252-254 Frankston-Dandenong Road, Dandenong in the state of Victoria under section 87B of the *Trade Practices Act 1974* (the Act).

#### BACKGROUND

2. Jayco is incorporated in the State of Victoria and its principal activities include the manufacturing and wholesaling of caravans which it sells through its independent dealer network.
3. The ACCC is responsible for ensuring compliance with mandatory consumer product safety standards under the Act. The mandatory consumer product safety standard applicable to vehicle and caravan jacks is either of Australian New Zealand Standard AS/NZ 2693:1993-Vehicle Jacks, or Australia New Zealand Standard 2693:2003-Vehicle Jack ("the Australian standards") as declared by Commonwealth Gazette Notice No. 50, 17 December 2003.
4. In February 2004 staff of the Melbourne Regional office of the ACCC ("Staff") received a complaint alleging that Jayco was supplying jacks with its caravans and as an aftermarket item that did not have affixed the safety warning and user instruction markings or provide the written instructions as required by clause 7 the Australian standards. Staff visited the Jayco retail premises located at 252-254 Frankston-Dandenong Road on two separate occasions in February and April 2004 and purchased one sample of the scissor type jack ("the jack") of concern on each occasion.
5. A visual examination of each sample of the jack purchased from Jayco revealed that neither sample carried any of the safety warning or user instruction labelling required by the Australian standards in contravention of section 65C of the Trade Practices Act 1974.
6. On 8 April 2004 the ACCC wrote to Jayco advising it was of the view that Jayco may have contravened section 65C of the Act.

7. Jayco initially advised Staff the supplier of the jack had provided Jayco with a certificate stating the jack complied with an international standard. Jayco was unable to provide evidence of compliance with the Australian standards. Subsequent testing of the jacks to the Australian standards revealed the jack also failed to comply with certain of the performance requirements of the standards. Although there was some initial contention as to whether or not the jacks complied with the Australian standards in respect of their performance, Jayco proceeded with the recall on the basis that they did not.
8. The ACCC observes that once Jayco was notified of the problem it acted promptly to take corrective action by:
  - a) immediately ceasing supply of the jack with its caravans and as an aftermarket item;
  - b) placing a recall notice in a major daily newspaper on 23 June 2004 in the form attached in each state and territory Jayco caravans are supplied or the jack is supplied as an aftermarket item;
  - c) placing a recall notice on the Jayco website on 28 July 2004;
  - d) writing to all Jayco caravan dealers and owners on 21 June 2004 in the form attached based on its customer records advising of the non compliant jacks and what follow up action to take; and
  - e) writing to all Jayco caravan owners between 9 to 12 August 2004 in the form attached reminding owners that the replacement caravan jack will be available on 16 August 2004.
9. Jayco and the ACCC have agreed to resolve this matter by the giving and accepting of undertakings in the terms and conditions as follows.

#### **UNDERTAKING**

10. In resolution of the matters referred to above Jayco undertakes that:
  - (a) it will for a period of three years in relation to caravan jacks supplied by it and which are required to comply with the prescribed consumer product safety standard for caravan jacks, supply only jacks that comply with that standard;
  - (b) appoint a dedicated officer to monitor the recall program which includes sending a third recall letter in a similar form to any owners identified as not having responded to the first or second letters;
  - (c) it will implement an upgraded corporate compliance program, with a focus on prescribed product safety standards, tailored to Jayco's circumstances which;
    - (i) demonstrates commitment to a policy of compliance with the Act and will embed a culture of compliance throughout Jayco;
    - (ii) identifies risk areas for trade practices contraventions and develops systems to eliminate or minimise these risks; and

- (iii) provides that Jayco will take appropriate action concerning any persons within its control who are responsible for contraventions of the Act; and
- (iv) provide practical and verifiable training for all Directors, employees and agents of Jayco and its subsidiaries so that contraventions and potential contraventions of the Act may be prevented or otherwise detected, referred and acted upon.

In respect of the above upgraded compliance program Jayco will undertake to incorporate the following:

### **Commitment**

11. Jayco will maintain its Product Development Committee and ensure that compliance matters are standing items at the Product Development Committee meetings.

Jayco will appoint a Senior Manager with overall responsibility for compliance systems.

Jayco will upgrade its procedures to check for trade practices compliance.

Jayco will ensure that its staff understand its compliance procedures, as necessary. Jayco will make its agents, distributors and advertising representatives aware of any part of the compliance procedures that relate to them.

### **Policy and procedures**

12. Jayco will produce a written policy of commitment to compliance and articulate how this will be carried out; set in place procedures so that the policy is well understood throughout the company; and ensure procedures are laid down to assess compliance against predetermined objectives and assessment criteria.

### **Management responsibility**

13. Jayco will detail the processes involved in establishing, implementing and maintaining the upgraded compliance program and the roles and responsibilities of management, staff and other stakeholders.

Jayco will ensure that line managers and/or buyers are responsible for compliance in their immediate area.

### **Resources and authority**

14. Jayco will ensure that the senior manager responsible for compliance systems has:
  - a) authority, recognition and support within the organisation;

- b) access to all levels in the organisation to ensure compliance;
- c) overall responsibility for the design, integrity and updating of the program; and
- d) access to the General Manager when required.

Jayco will ensure that its staff have access to the necessary materials including compliance manuals and training, reference material and databases.

Jayco will ensure that any external compliance service providers have the resources and expertise to carry out the required tasks.

### **Continuous improvement**

- 15. Jayco will put in place procedures to ensure that the upgraded compliance program has regular ongoing reviews.

### **Operating procedures for compliance**

- 16. Jayco will ensure that the upgraded compliance program is, as appropriate, integrated into:
  - a) computer systems;
  - b) forms;
  - c) contracts;
  - d) administrative procedures;
  - e) financial evaluations; and
  - f) management performance evaluations (line and senior).

### **Product safety**

- 17. Jayco, in implementing its upgraded compliance program will:
  - a) maintain up to date copies, at its business premises, of all prescribed consumer product safety standards and prescribed consumer information standards that relate to products that Jayco supplies;
  - b) ensure that the products it supplies and that are subject to a prescribed safety and/or information standard under the Act, comply with the relevant standard; and
  - c) maintain recall procedures that would enable swift recovery if products do not comply with prescribed safety and/or information standards under the Act.

### **Training**

- 18. Jayco, in implementing its upgraded compliance program, will develop and execute a practical and easily understood compliance training system throughout the company. Training will be appropriate for the particular employee role and levels and will be:
  - a) integrated into induction courses;

- b) reviewed every twelve months;
- c) participatory;
- d) verifiable by third parties;
- e) framed to reflect areas of risk; and
- f) integrated into line and senior management development.

### **Complaints handling system**

19. Jayco will maintain a visible and accessible complaints handling system.

### **Record keeping**

20. Jayco will ensure that it keeps accurate records of compliance failures and complaints and of the rectification of such failures and complaints.

### **Employee compliance**

21. Jayco, in upgrading its compliance program, will develop an appropriate disciplinary policy for breaches of the Act by employees and ensures that the policy is widely disseminated.

### **Identification and rectification**

22. Jayco will maintain its system to identify and classify compliance failure so that systemic and recurring problems are rectified.

### **Reporting**

23. Jayco will ensure that compliance problems are promptly reported to the Compliance Manager.

### **Accountability**

24. Jayco will ensure that the Compliance Manager is accountable to the General Manager for compliance issues.

## **COMMENCEMENT OF UNDERTAKING**

25. This undertaking comes into effect when :
- (a) this undertaking is executed by Jayco; and
  - (b) the ACCC accepts the undertaking so executed.

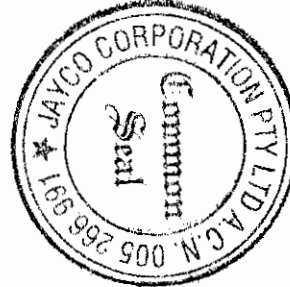
## **ACKNOWLEDGMENTS**

26. Jayco acknowledges the ACCC's rights to make this undertaking available for public inspection.

- 27. Jayco acknowledges that the ACCC may issue a media release in relation to this undertaking and may from time to time publicly refer to the undertaking.
- 28. Jayco 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, Jayco Corporation Pty Ltd ACN 005 266 991, executes this agreement by authority of the board or directors in the presence of:

The 19<sup>th</sup> day of October 2004



THE COMMON SEAL of )  
 JAYCO CORPORATION PTY LTD )  
 was affixed in accordance with )  
 Articles of Association: )

*[Handwritten signature]*  
 .....  
~~Director~~ / Secretary

*[Handwritten signature]*  
 .....  
 Director

EDWARD JOSEPH WOOD  
 .....  
 Name (printed)

GRAEME THOMAS RYAN  
 .....  
 Name (printed)

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

*[Handwritten signature]*  
 .....  
 Graeme Julian Samuel  
 Chairman

This 29<sup>th</sup> day of October 2004

## PRODUCT SAFETY RECALL

### JAYCO CARAVAN JACK SAFETY RECALL NOTICE

Jayco Corporation Pty Ltd ('Jayco'), following consultation with the Australian Competition and Consumer Commission ('ACCC') commenced a voluntary recall of certain caravan jacks supplied by Jayco. These jacks do not comply with the requirements of the mandatory consumer product safety standard for vehicle jacks based on Australian/New Zealand Standard AS/NZ 2693:2003 - Vehicle Jacks ('the vehicle jack safety standard').

The recall applies to all jacks supplied by Jayco from mid February, 2003:

- (a) as an accessory with a new caravan; or
- (b) as an aftermarket item through Jayco's factory shop or "Coast to Coast" outlets.

The jacks in question did not have a mandatory safety label affixed to the body of the jack. The jacks also do not comply with the overload and durability sections of the vehicle jack safety standard. **You should not use the jack.**

Owners will, over the next 7 days, be sent by mail details of where and how to exchange their jacks for a new jack that complies with the vehicle jack safety standard. **The new jacks will not be available until 16 August, 2004** and so no action is needed by owners now. Owners will be sent a reminder letter prior to this date.

It is important that the jacks are exchanged as soon as the new jacks are available. You will be required to provide the old jack in exchange. There is no charge for this exchange.

You should be aware that the following warnings should have been affixed to your jack, and the warnings apply to any vehicle jack:

**WARNING: DO NOT GET UNDER A VEHICLE THAT IS ONLY  
SUPPORTED BY A JACK - USE VEHICLE SUPPORT STANDS  
WARNING: USE ONLY WITH CORRECT ENGAGEMENT FITTINGS**

If a Jayco owner does not receive a letter, does not have their contact details registered with Jayco or has a jack that they have purchased as an aftermarket item they can contact their nearest Jayco dealer or Jayco after 16 August, 2004 to arrange for a mutually convenient time to exchange their jack. A list of all Jayco dealers is listed on Jayco's website [www.jayco.com.au](http://www.jayco.com.au).

If you have any questions regarding this Safety Recall then please contact the Safety Recall Co-ordinator, Walter Jurgens on 03 9791 6599.

JAYCO LOGO

See [www.recalls.gov.au](http://www.recalls.gov.au)  
Australian Product Recall Information

[Sent on Jayco's letterhead]

[Insert date]  
[Insert name and address]  
[Insert , caravan model]

Dear [insert name]

## **WARNING - JAYCO CARAVAN JACK SAFETY RECALL**

Our records and enquiries indicate that you own a caravan manufactured by Jayco Corporation Pty Ltd ('Jayco') that was supplied with a jack.

### **Background**

The Australian Competition and Consumer Commission ('the ACCC') recently conducted a survey of vehicle jacks and discovered that some jacks supplied by Jayco as a caravan accessory from mid February 2003 do not comply with the requirements of the mandatory consumer product safety standard for vehicle jacks. This standard is provided in the Australian/New Zealand Standard AS/NZ 2693:2003 - Vehicle Jacks ('the vehicle jack safety standard').

The jacks in question did not have a mandatory safety label affixed to the body of the jack. The jacks also did not comply with the overload and durability sections of the vehicle jack safety standard. **You should not use the jack.**

Following discussions with the ACCC, Jayco is conducting a voluntary product safety recall of jacks that do not comply with the vehicle jack safety standard. Jayco has been working with the ACCC to ensure that the recall is conducted as efficiently and with as little inconvenience to you as possible.

### **What you should do**

**The new jacks will not be available until 16 August, 2004** and so no action is needed by you now. You will be sent a reminder letter prior to this date.

It is important that the jacks are exchanged as soon as the new jacks are available. At that time, to complete the recall, you need to take your jack to the dealer from which you bought your caravan or to any other Jayco dealer. The jack will be exchanged for a new jack that complies with the vehicle jack safety standard. Attached with this letter is a list of all Jayco dealers in Australia.

If you have bought the jack as an aftermarket item, you can return the jack at the place of purchase, or to any Jayco dealer.

There is no charge for this exchange. To enable Jayco to monitor the success of the recall, you will be required to provide your details when returning the jack.



If you have sold your caravan to a third party, please forward this letter onto them if you know their address. In any case, please advise Jayco that you are no longer the caravan owner in order for us to monitor the completeness of the recall.

### **Warning**

You should be aware that the following warnings should have been affixed to your jack, and the warnings apply to any vehicle jack:

**WARNING: DO NOT GET UNDER A VEHICLE THAT IS ONLY  
SUPPORTED BY A JACK - USE VEHICLE SUPPORT STANDS  
WARNING: USE ONLY WITH CORRECT ENGAGEMENT FITTINGS**

### **Thank you from Jayco**

Jayco thanks you for your attending to this matter. I apologise for any inconvenience but assure you of our best efforts to maintain your satisfaction with Jayco caravans.

If you have any questions relating to this recall please do not hesitate to contact your nearest Jayco dealer or telephone Jayco's Safety Recall Coordinator, Walter Jurgens, on 03 9791 6599.

Yours sincerely,

[Name]  
Jayco Corporation Pty Ltd

9 August, 2004

«TITLE» «FIRST\_NAME» «Surname»  
«ADDRESS»  
«SUBURB» «STATE» «PCODE»

Dear «TITLE» «Surname»

Chassis No: «ChassisNum»

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The new jacks will be available from the 16<sup>th</sup> of August, 2004 and it is important that the jacks are exchanged as soon as possible. You will need to take your caravan, pop-top or campervan to a Jayco dealer who will exchange your jack and then fit a new jacking point to the underside of your unit.

Please contact the Jayco dealer nearest you to make the relevant arrangements, or if you are in the Melbourne Metropolitan please contact our Service Department direct.

We sincerely apologise for this inconvenience, however it is necessary to ensure the safe operation of your Jayco. If you experience any problems or difficulties in making arrangements please call our Service Department on 1800 331 601 Toll free.

Yours sincerely,



Walter Jurgens  
Technical Manager  
Jayco Corporation Pty Ltd