



TRADE PRACTICES ACT 1974

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

BY

AAA EMBROIDERY & SCREEN PRINTING PTY LTD

(ACN 092 619 862)

PERSON GIVING UNDERTAKING

1. This undertaking is given to the Australian Competition and Consumer Commission ("the Commission") by AAA Embroidery & Screen Printing Pty Ltd (ACN 092 619 862) ("the Company") of 19 Gerald Street, Marrickville, in the State of New South Wales under section 87B of the *Trade Practices Act 1974* ("the TPA").

BACKGROUND

2. The principal trading activities of the Company include the importation of T-shirts from China for resale in Australia. The Company imports various colours of plain T-shirts to which it adds screen printed designs or embroidery in its factory in Australia. The Company then supplies the T-shirts to souvenir shops for ultimate sale to consumers throughout Australia.
3. The Company has advised the Commission that some of the T-shirts it imported from China have a label on them bearing the words '*Made in China*' and '*Australia Designed*' together with a tag showing the Australian flag and the word '*Australia*'. The Company advised that before supplying the T-shirts to souvenir shops they added screen printed designs to them and replaced the T-shirt tags and labels with a label containing the words '*Made in Australia*'.
4. The Company has also advised the Commission that, prior to supplying some of the T-shirts it imported from China to various souvenir shops, it altered the T-shirt labels bearing the words '*Made in China*' and '*Australia Designed*' by cutting away and discarding the words '*China*' and '*Designed*' so as to leave the labels reading '*Made in Australia*'.
5. The Commission considers that if material is cut, sewn and finished into a T-shirt in an overseas country and then imported into Australia, where the T-shirts undergo processes such as screen printing or embroidery, then in these cases the T-shirts have not been substantially transformed in Australia as they have not been fundamentally changed in their form, appearance or nature, and they therefore cannot be claimed to have been '*Made in Australia*'.

6. The Company acknowledges the Commission's concern that the work performed by the Company in adding a screen print design or embroidery to blank imported T-shirts was unlikely to be sufficient to allow the Company to legitimately claim the T-shirts in question were made in Australia.
7. The Company also acknowledges that its conduct referred to in paragraphs 3 and 4 above was likely to mislead consumers as to the origin of the T-shirts and consequently may have contravened section 52 (which deals with misleading or deceptive conduct) paragraph 53(a) or 53(eb) or paragraph 75AZC(1)(a) or (i) (which all deal with false or misleading representations) of the TPA.
8. In consequence of the matters referred to above, the Company has requested that the Commission accept, pursuant to section 87B of the TPA, the following undertakings from the Company.

UNDERTAKINGS

9. The Company undertakes to the ACCC for the purposes of section 87B that the Company:
 - i. 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 set out in section 65AB of the TPA, namely that:
 - a. the goods have been substantially transformed, as defined in section 65AE of the TPA, in Australia; and
 - b. 50% or more of the cost of manufacturing the goods is attributable to manufacturing processes that occurred in Australia;
 - ii. will use its best efforts to cause to be removed from all goods it currently has in stock 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 for country of origin claims set out in section 65AB of the TPA;
 - iii. will use its best efforts to advise resellers of its incorrectly labelled T-shirts that the T-shirts are not made in Australia, and instruct each such reseller to remove and/or stop any such representation;
 - iv. will ensure that, where the Company wishes to use qualified claims on its goods stating that some part of the manufacturing process was undertaken in Australia (e.g. 'Designed in Australia', 'Embroidered and Printed in Australia'), such statements are accurate;

- v. will, at its own expense and within three months of the acceptance of this undertaking:
 - a. cause its directors to undertake trade practices education and training by completing a course designed to ensure the directors are aware of their responsibilities and obligations relating to Part V of the TPA, especially in relation to Division 1AA, such training to be provided by a suitably qualified compliance professional with experience in trade practices law; and
 - b. within one week of the directors attendance at the course, notify the Commission in writing of completion of the said course.
- vi. will, within four months of the acceptance of this undertaking, cause to be implemented an education program for all the Company's staff on issues relating to Country of Origin. This will include ensuring all staff read and understand the Commission brochures "*When are 'souvenirs of Australia' Australian souvenirs?*" and '*Country of Origin Claims and the Trade Practices Act*'.

COMMENCEMENT OF UNDERTAKINGS

10. This undertaking comes into effect when:

- a) the undertaking is executed by the Company; and
- b) the ACCC accepts the undertaking so executed.

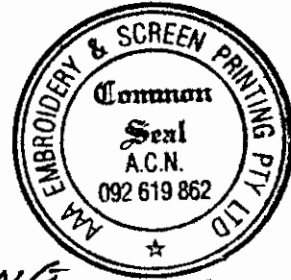
ACKNOWLEDGEMENTS

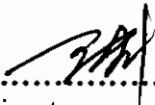
11. The Company acknowledges that the ACCC will make this undertaking available for public inspection.

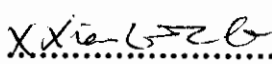
12. The Company further acknowledges that the ACCC will from time to time publicly refer to this undertaking.

IN WITNESS OF THIS UNDERTAKING AND ITS AGREEMENTS

The common seal of AAA EMBROIDERY
& SCREEN PRINTING PTY LTD
ACN 092 619 862 is affixed in accordance with
its Articles of Association in the presence of:

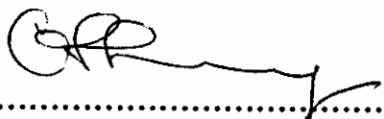



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Director **JEFFREY ZHUAN SHENG WANG.**


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Director **XIAO QIN CHEN**

This day of **7 / 9 /** 2005

Accepted by the **AUSTRALIAN COMPETITION AND CONSUMER COMMISSION** pursuant to section 87B of the Trade Practices Act 1974


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(Graeme Julian Samuel)
Chairman

This **11** day of **October** 2005