

TRADE PRACTICES ACT 1974

Undertaking to the Australian Competition and Consumer Commission given for

the purposes of section 87B

by

Beaver Sales Pty Limited

ACN 001 428 815

Background

- (1) Beaver Sales Pty Limited ACN 001 428 815 ("Beaver") wholesales and distributes products such as lifting chains and fitting rigging accessories, 4WD and recovery equipment, wire rope and fittings and synthetic slings across Australia.
- (2) The Black Rat Powerlifter Jack is a product in respect of which there is a prescribed consumer product safety standard declared by the Minister, pursuant to section 65E(1) of the Trade Practices Act 1974 ("the Act"), to be a consumer product safety standard for the purposes of section 65C of the Act.
- (3) The prescribed consumer product safety standard is based on Australian and New Zealand Standard AS/NZ 2693:1993 and Australian and New Zealand Standard AS/NZ 2693:2003 as cited in Consumer Protection Notice No 15 of 2003 which was published in the Commonwealth of Australia Gazette No GN50, 17 December 2003 ("the Standard").
- (4) The ACCC commissioned testing of the Black Rat Powerlifter Jack in accordance with Appendices C and F of the Standard. As a result of these tests the ACCC alleges that the Black Rat Powerlifter Jack failed to meet the requirements in clauses 6.2 and 6.7 of the Standard, when tested in accordance with Appendices C and F.
- (5) Beaver maintains that its testing of the Black Rat Powerlifter Jack indicates that the Black Rat Powerlifter Jack does meet the requirements of the Standard.
- (6) The ACCC has commenced proceedings in the Federal Court of Australia, matter No NSD1349 of 2006 alleging that the Black Rat Powerlifter Jack does not comply with the

Standard. It also alleges that Beaver have breached other provisions of the Act in relation to its marketing and promotion of the Black Rat Powerlifter Jack, which breaches arise from the alleged non compliance with the Standard.

- (7) In order to resolve the ACCC's concerns regarding the immediate ongoing supply of the Black Rat Powerlifter Jack in the market, Beaver has given this undertaking on a non-admission basis, and is given in lieu of the ACCC seeking interlocutory Orders from the Federal Court.

Commencement

- (8) This undertaking comes into effect when:
- (a) The undertaking is executed by Beaver; and
 - (b) The ACCC accepts the Undertaking so executed.
- (9) Upon the commencement of this Undertaking, Beaver undertakes to assume the obligations set out in paragraphs 10 to 12.

Undertakings

- (10) Beaver undertakes to the ACCC that Beaver will immediately:
- (a) withdraw the Black Rat Powerlifter Jack from sale;
 - (b) cease all existing promotion of the Black Rat Powerlifter Jack, including promotion by way of Beaver's website;
 - (c) write to all customers to whom it has supplied the Black Rat Powerlifter Jack ("Retail Customers"), requesting those Retail Customers to immediately remove the Black Rat Powerlifter Jack from sale and display;
 - (d) not fulfil any orders placed by customers with Beaver for the Black Rat Powerlifter Jack.
- (11) Beaver undertakes to the ACCC that it will, within 5 days, provide the ACCC with a copy of the letter referred to in paragraph 10(c) above, and confirmation that the letter was sent to all its Retail Customers.

(12) Beaver undertakes to the ACCC that, until final orders are made in the proceedings No NSD1349 of 2006, Beaver will not;

(a) promote the Black Rat Powerlifter Jack, including promotion by way of Beaver's website;

(b) fulfil any orders placed by customers with Beaver for the Black Rat Powerlifter Jack;

(c) inform Retail Customers that they can reinstate the Black Rat Powerlifter Jack for sale and display;

however, this undertaking and the undertaking in paragraph 10 do not require Beaver to withdraw from circulation the current edition of its hard copy catalogue.


Acknowledgments

(13) Beaver acknowledges that the ACCC will make this undertaking available for public inspection.

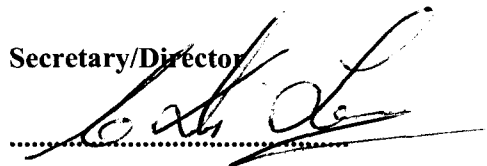
(14) Beaver further acknowledges that the ACCC will from time to time publicly refer to this undertaking.

(15) Beaver further acknowledges that this undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

Executed by Beaver Sales Pty Limited (ACN 001 428 815) pursuant to section 127(1) of the Corporations Act 2001:



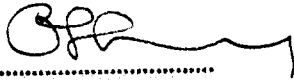
Secretary/Director



Director

This 19th day of July 2006

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

Chairperson

This 28 day of July 2006