

TRADE PRACTICES ACT 1974**UNDERTAKING TO THE AUSTRALIAN COMPETITION AND CONSUMER
COMMISSION GIVEN FOR THE PURPOSES OF SECTION 87B****BY****SHERIDAN AUSTRALIA PTY LTD
ACN 094 091 380****PARTY GIVING UNDERTAKING**

1. This undertaking is given to the Australian Competition and Consumer Commission ("the ACCC") by Sheridan Australia Pty Ltd ACN 094 091 380 ("Sheridan") of 10-14 Waterloo Street, Surry Hills, in the State of New South Wales, under section 87B of the Trade Practices Act 1974 ("the TPA").

BACKGROUND

2. Since April 2005, Sheridan has supplied "Sheridan Ultradown" brand down quilts and pillows in the Australian indoor bedding market.
3. Sheridan promoted its "Sheridan Ultradown" quilts and pillows through representations including "100% white goose down" and "80% white goose down".
4. To test the accuracy of the 100% goose down content claims made by Sheridan, the ACCC purchased a sample of "Sheridan Ultradown" quilts and arranged professional testing of the quilts in accordance with recognised testing procedures for down products. The "Sheridan Ultradown" quilts tested by the ACCC were calculated to contain in the range of 80% - 85% goose down, significantly less than the represented 100% goose down.
5. Following its investigation into Sheridan's 100% goose down content representations, the ACCC considered that these representations were false and misleading to consumers and accordingly, likely constituted conduct in contravention of sections 52, 53(a) and 55 of the TPA.
6. Sheridan has advised the ACCC that its 100% down content claims were made in reliance on labelling percentage tolerances allowed in Australian Standard (AS) 2479-1987, and on test reports provided by its overseas supplier, and that it had not intended to mislead or deceive consumers.
7. Sheridan also provided substantiation to the ACCC that in November 2005 it had commenced an internal review of its labelling practices in respect of down quilts and pillows, and prior to the ACCC's communication with the company, Sheridan had commenced the process of revising its packaging and labelling to remove all references to products containing 100% down and to cease any representations as to down content percentage which were based on a

tolerance or allowance. This relabelling process was completed by Sheridan in early March 2006.

8. Sheridan acknowledges the ACCC's concerns that its 100% goose down content claims were false and liable to mislead consumers and may contravene sections 52, 53(a) and 55 of the TPA.

UNDERTAKING

9. In consequence of the matters referred to above, Sheridan gives the following undertaking to the ACCC pursuant to section 87B of the TPA:
 - 9.1 Sheridan undertakes to the ACCC, that for a period of 3 years, it will not:
 - (a) promote that any of its "Sheridan Ultradown" or other own-brand quilts and pillows contain 100% down, given that normal commercial manufacturing processes are very unlikely to achieve this percentage of down content;
 - (b) make any other representations as to down content percentage for its own-brand products which include any down content percentage tolerance or allowance; and
 - (c) make any representations as to down percentage content and/or specie that it cannot substantiate by way of testing of finished down products derived from each shipment of down, or finished down products, purchased by Sheridan ('finished down products' refers to down products where the manufacturing process has been completed). Such testing is to conform to AS-2479 or such other Australian standard as amends or supercedes this standard, or is to conform to International Down and Feather Bureau (IDFB) approved testing methods.
 - 9.2 Sheridan will use its best endeavours to ensure that as at the commencement date of this undertaking all "Sheridan Ultradown" product labelling and promotional material in the possession of Australian retail outlets supplied by Sheridan do not display any false or misleading representations as to down percentage content and/or specie.
 - 9.3 Sheridan will place on its internet web-site for 90 days following the commencement date of this undertaking a corrective notice as set out in *Annexure A* or *Annexure B* to this undertaking.
 - 9.4 Sheridan will, within 21 days of the commencement of this undertaking, place:
 - (a) a corrective advertisement in the form set out in *Annexure A* to this undertaking in a Saturday and a Sunday edition of the largest circulation daily capital city newspaper in each State and Territory in Australia in which Sheridan down quilts have been sold. The corrective advertisement will be placed within the first ten pages of each newspaper, and will be of a size of at least 15cm x 12cm (or equivalent area), with minimum 9 point font size. The heading of the corrective

newspaper advertisement will be at least 2 point font size larger than the other text.

or;

- (b) in conjunction with certain other indoor down products companies, a corrective advertisement in the form set out in *Annexure B* to this undertaking in a Saturday and a Sunday edition of the largest circulation daily capital city newspaper in each State and Territory in Australia in which Sheridan down quilts have been sold. The corrective advertisement will be placed within the first ten pages of each newspaper, and will be of a size of at least 22cm x 13cm (or equivalent area), with minimum 9 point font size. The heading of the corrective newspaper advertisement will be at least 2 point font size larger than the other text.

- 9.5 Sheridan will provide the ACCC, within 7 days after the publication date of each corrective newspaper advertisement, with a copy of the corrective newspaper advertisement.

Trade Practices Compliance Program undertaking

- 9.6 Sheridan will ensure that its existing Trade Practices Compliance Program covers those officers, employees and other persons involved in Sheridan's business who have contact with Australian consumers of Sheridan down products, or who are involved in the marketing or promotion of Sheridan down products. The Compliance Program is to ensure awareness of Sheridan's responsibilities in relation to the requirements of sections 52, 53(a) and 55 of the TPA, and to minimise Sheridan's risk of future breaches of sections 52, 53(a) and 55 of the TPA.
- 9.7 Sheridan will amend its existing Trade Practices Compliance Program to provide for two independent reviews on the effectiveness of its compliance program to ensure compliance by Sheridan with its responsibilities under sections 52, 53(a) and 55 of the TPA, with the first review to be undertaken within 13 months of the commencement date of this undertaking coming into effect, and the second review to be undertaken within the final 3 months of the 3 year period of the undertaking. Sheridan will provide the ACCC with a copy of each independent review report within one month of the independent review being completed.
- 9.8 Sheridan will maintain and continue to implement the Trade Practices Compliance Program for a period of 3 years from the date of this undertaking coming into effect.

COMMENCEMENT OF UNDERTAKING

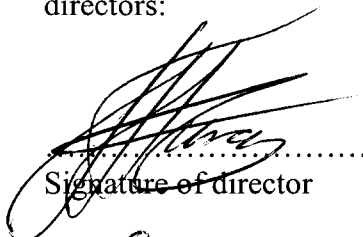
10. This undertaking comes into effect on the date on which:
 - (a) the undertaking is executed by Sheridan; and
 - (b) the ACCC accepts the undertaking so executed.

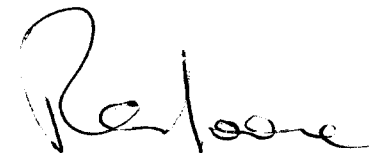
ACKNOWLEDGEMENTS

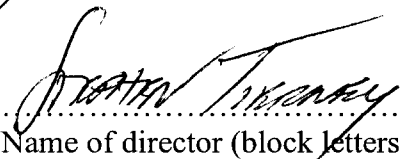
11. Sheridan acknowledges the ACCC's right to make this undertaking available for public inspection and notes that the ACCC will, at its discretion, from time to time, publish and publicly refer to this undertaking.
12. Sheridan acknowledges and accepts that this undertaking in no way derogates the rights and remedies available to any person (other than the ACCC) arising from Sheridan's conduct.

EXECUTION PAGE

EXECUTED by **SHERIDAN AUSTRALIA PTY LTD (ACN 094 091 380)** in accordance with section 127(1) of the *Corporations Act* 2001 by authority of its directors:

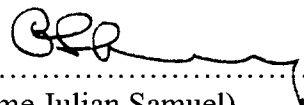

.....
Signature of director


.....
Signature of director


.....
Name of director (block letters)

.....
PAUL MOORE
.....
Name of director (block letters)

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


.....
(Graeme Julian Samuel)
Chairman
Australian Competition and Consumer Commission

Date: 12 July 2006

Annexure A

SHERIDAN AUSTRALIA PTY LTD – CORRECTIVE ADVERTISEMENT

Company logo to be inserted

IMPORTANT NOTICE **DOWN CONTENT LABELLING OF QUILTS**

The Australian Competition and Consumer Commission (ACCC) has brought to the attention of Sheridan Australia Pty Ltd (Sheridan) that sample testing of our *Sheridan Ultradown* brand quilts showed that they contained significantly less than the 100% goose down that we claimed. The *Sheridan Ultradown* quilts tested by the ACCC were calculated to contain in the range of 80% - 85% goose down.

Accordingly, the ACCC has advised Sheridan that the down content claims that we have made are likely to be in contravention of the *Trade Practices Act* which requires that any claims made be accurate and not misleading to consumers.

In making 100% down content claims, we relied on down content tolerances allowed in Australian Standard 2479-1987, and on test reports from our overseas supplier.

We fully acknowledge the ACCC's concerns and apologise to consumers who consider that they may have been misled by the claims that we made.

Sheridan has undertaken to the ACCC that where in future we specify a percentage (or percentage range) of down this will accurately reflect the minimum amount of down present in our quilts and pillows.



This corrective advertisement has been placed by Sheridan in compliance with court enforceable undertakings given by Sheridan to the ACCC.

Annexure B

GROUP CORRECTIVE NEWSPAPER ADVERTISEMENT

Companies logos to be inserted

IMPORTANT NOTICE

DOWN CONTENT LABELLING OF QUILTS

The Australian Competition and Consumer Commission (ACCC) has brought to our attention that sample testing of our quilts by the ACCC showed that they contained significantly less than the 100% goose down [or 100% duck down] that we have claimed. The test results were:

[*Trading name in alphabetical order*] [*Brand of product tested*] [*Test results range*]
[*Trading name in alphabetical order*] [*Brand of product tested*] [*Test results range*]
[*Trading name in alphabetical order*] [*Brand of product tested*] [*Test results range*]
[*Trading name in alphabetical order*] [*Brand of product tested*] [*Test results range*]

The ACCC's view is that our various 100% down content claims cannot be sustained and are likely to be in contravention of the *Trade Practices Act* which requires that any claims made be accurate and not misleading to consumers.

In making 100% down content claims, we relied on down content tolerances allowed in Australian Standard 2479-1987, and on test reports from our overseas suppliers.

We fully acknowledge the ACCC's concerns and apologise to consumers who consider that they may have been misled by the claims that we made. We have undertaken to the ACCC that where in future we specify a percentage (or percentage range) of down this will accurately reflect the minimum amount of down present in our products.



This corrective advertisement has been jointly placed by [... *company names in alphabetical order*]
in compliance with court enforceable undertakings given by each company to the ACCC.