

TRADE PRACTICES ACT 1974
UNDERTAKING TO THE AUSTRALIAN COMPETITION
AND CONSUMER COMMISSION GIVEN FOR
THE PURPOSES OF SECTION 87B
BY
LOOK DIRECT INTERNATIONAL PTY LIMITED
ACN. 099 535 976

PERSON GIVING THE UNDERTAKING

This Undertaking is given to the Australian Competition and Consumer Commission (ACCC) by Look Direct International Pty Limited (ACN 099 535 976) (**Look Direct International**) of 21 Ascot Crescent , Samford in the State of Queensland, under section 87B of the *Trade Practices Act 1974* (TPA).

BACKGROUND

Cosmetics Ingredients

- (1) Look Direct International is registered in New South Wales and its principal activities is the supply of gift products, including cosmetic products, to retail outlets throughout Australia.
- (2) The Trade Practices (Consumer Product Information Standards) (Cosmetics) Regulations 1991 (**Cosmetics Standard**) requires, amongst other things, that cosmetic product ingredients be listed in descending order by volume or mass either:
 - a) on the container; or
 - b) if the product is not packed in a container - on the product; or
 - c) if this is not possible because of the size, shape or nature of the product or its container, a list of the product's ingredients must be shown in another way that ensures that a consumer can be informed about the ingredients of the product.
- (3) Section 65D of the TPA, prohibits a corporation from supplying goods that do not comply with the requirements of a prescribed consumer product information standard.
- (4) In July 2008, as part of marketplace monitoring, ACCC staff purchased a Look Direct International product from an Australia The Gift retail outlet located in Perth described on its packaging as "Tattoo Gel Pens 6 Pack" (**Product**). The Product was supplied with a plastic container in the shape of the pens holding the six Gel Pens inserted into a cardboard sleeve. The ingredients of the product were not listed on the plastic container or on the cardboard sleeve.
- (5) By supplying the Product without a list of ingredients as required by the Cosmetics Standard, Look Direct International acknowledges that it contravened section 65D of the TPA.

- (6) To ensure consumers were made aware that the Product did not comply with the Cosmetics Standard, Look Direct International placed an Information Notice in The Australian newspaper offering consumers who purchased the Product a refund of the full purchase price.

Purpose of Undertaking

- (7) Look Direct International has offered this Undertaking to the ACCC for the purposes of section 87B of the TPA.

COMMENCEMENT OF UNDERTAKING

- (8) This Undertaking comes into effect when:
- a) the Undertaking is executed by Look Direct International; and
 - b) the ACCC accepts the Undertaking so executed.
- (9) Upon the commencement of this Undertaking, Look Direct International undertakes to assume the obligations set out in paragraphs 9 to 14 (below).

UNDERTAKINGS

Look Direct International undertakes to the ACCC, for the purposes of section 87B of the TPA, that it:

- (10) has ceased the supply of the Product which does not comply with the Cosmetics Standard;
- (11) will use its best endeavours to ensure that within 30 days of the commencement of this Undertaking all retailers to which it supplied the Product display a notice at the point of sale in their stores in the form and terms of **Annexure A** to this Undertaking for a period of no less than 3 months;
- (12) will within 30 days of the commencement of this Undertaking, conduct an audit of its range of products to identify any products that do not comply with the Cosmetics Standard;
- (13) will within 60 days of the commencement of this Undertaking, communicate with the managing staff of each of the retail outlets to whom Look Direct International has supplied cosmetic products identified in paragraph 12, to notify those retail outlets that Look Direct International has supplied non-compliant cosmetic products and use its best endeavours to ensure that those non-compliant cosmetic products have been withdrawn from sale at each retail outlet; and
- (14) will within 90 days from the date of the Undertaking coming into effect, at its own expense, implement trade practices training for staff in relation to section 65D, as well as a corporate complaints handling system covering section 65D of the TPA, in accordance with the requirements set out below:

Training

- a) Within 90 days of this Undertaking coming into effect, all officers and employees of Look Direct International who are engaged in senior executive,

marketing or sales functions (**Relevant Staff**) will attend practical trade practices training focusing on the application of section 65D of the TPA.

- b) Look Direct International will ensure that the training referred to in paragraph a) above is administered by a suitably qualified, compliance professional or legal practitioner with expertise in trade practices law.
- c) Look Direct International will provide a written statement or certificate from the trade practices professional who conducts the training referred to in paragraph a) above to the ACCC within 14 days of completion of the training verifying that such training has occurred.
- d) Look Direct International will use its best endeavours to procure from the compliance professional or legal practitioner referred to in paragraph b) a printed handout of practical trade practices issues covered in the training course referred to in paragraph a) above.
- e) Look Direct International will ensure that the printed handout referred to in paragraph d) above is provided to any Relevant Staff commencing employment with Look Direct International after the training referred to in paragraph a) above is completed.
- f) If requested by the ACCC, Look Direct International will provide, at its own expense, copies of any other documents or information in respect of matters which are the subject of the training referred to in paragraph a) above or in respect of the printed handout referred to in paragraph d) above.

Complaints handling

Within 90 days of this Undertaking coming into effect, Look Direct International will:

- a) develop procedures for recording, storing and responding to consumer or business complaints as to the labeling of Look Direct International products; and
- b) provide the ACCC with an outline of the complaint handling system within 2 months of the commencement of this Undertaking.

ACKNOWLEDGMENTS

- (15) Look Direct International acknowledges that the ACCC will make this Undertaking available for public inspection.
- (16) Look Direct International further acknowledges that the ACCC will from time to time publicly refer to this Undertaking.
- (17) Look Direct International 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

Look Direct International Pty Ltd (A.C.N. 099 535 976) and by its authorised officer pursuant to section 127(1)(c) of the *Corporations Act 2001*



Signature



Print name

Director/Secretary Look Direct International Pty Ltd

This 6th day of October 2008

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



Graeme Julian Samuel
Chairperson

This 5 day of November 2008

INFORMATION NOTICE

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A correction from Australia The Gift

[Insert Australia The Gift logo]

Recently, we at Australia The Gift supplied to retail outlets throughout Australia the product, "Tattoo Gel Pens 6 Pack".

The Trade Practices (Consumer Product Information Standards) (Cosmetics) Regulations 1991 (**the Cosmetics Standard**) requires, amongst other things, that cosmetic product ingredients be listed in descending order by volume or mass either:

- a) on the container; or
- b) if the product is not packed in a container - on the product; or
- c) if this is not possible because of the size, shape or nature of the product or its container, a list of the product's ingredients must be shown in another way that ensures that a consumer can be informed about the ingredients of the product.

The product "Tattoo Gel Pens 6 Pack" was supplied with a plastic container in the shape of the pens holding the six Gel Pens inserted into a cardboard sleeve. The ingredients of the product were not listed on the plastic container or on the cardboard sleeve.

The cosmetic product ingredients in the product are; xxxxxxxx

To compensate customers who have already purchased the Tattoo Gel Pens 6 Pack and believe they have been misled, we are offering a refund for the full purchase price of product.

For further information about claims for refunds you should contact Australia The Gift on (XX) XXXX XXXX.



**Australian
Competition &
Consumer
Commission**

This corrective advertisement has been placed at the cost of Australia The Gift pursuant to undertakings accepted by the Australian Competition and Consumer Commission.