



**stryker<sup>®</sup>**

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**Stryker Australia Pty Ltd**

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**(ABN 48 002 873 850)**

**Public Compliance Commitment**

**In Relation To**

**A New Tax System**

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**June 2000**

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## **I Introduction**

### **1.1 The New Tax System (NTS)**

The New Tax System (“NTS”) reforms include:

- a reduction in the Wholesale Sales Tax (“WST”) rate of 32 percent to 22 percent (29 July 1999);
- introduction of the Goods and Services Tax (“GST”) (1 July 2000);
- abolition of WST (1 July 2000);
- changes to excise on petrol and diesel and to the Diesel Fuel Rebate Scheme (1 July 2000);
- changes to excise on alcoholic beverages (1 July 2000);
- changes to excise on cigarettes (from 1 July 1999);
- introduction of a ‘Luxury Car Tax’ (1 July 2000);
- abolition of bed taxes (1 July 2000);
- abolition of State taxes on bank transactions (financial institutions duty, debits tax on 1 July 2001 and 1 July 2005 respectively) and stamp duties on business related transactions (date to be determined).

Section 75AU of the Trade Practices Act (“the Act”) prohibits price exploitation in relation to the NTS. The Australian Competition and Consumer Commission (“the ACCC”) has formulated guidelines on the application of section 75AU (“the Guidelines”).

## **1.2 Background to this Commitment**

The Public Compliance Commitment (“the Commitment”) is a voluntary statement by Stryker Australia Pty Ltd (“Stryker”).

It has been provided to the ACCC, for placement upon its public register, to confirm that:

- Stryker is committed to complying with the Act and the ACCC’s Price Exploitation Guidelines;
- Stryker’s pricing changes have been based on the identification of cost savings in line with the NTS and the introduction of the GST;
- Stryker is not engaging in price exploitation having regard to the NTS; and
- Stryker is conducting its business in an ethical manner.

### **NTS/GST Project**

Stryker is completing a comprehensive review project to ascertain the impact of the NTS and GST upon its business, in preparation for its introduction on 1 July 2000.

This Compliance Commitment forms a key part of this project.

### **Stryker’s Australian Business**

Stryker imports and markets a wide range of specialty surgical and medical products to medical establishments and practitioners within Australia, under the *Stryker*, *Howmedica*, *Osteonics* and *Medsurg* brands.

These products include orthopaedic implants, trauma systems, powered surgical instruments, endoscopic systems, and patient care and handling equipment.

The nature of Stryker’s products is such that most currently do not attract WST either when imported, or when sold. However, most will attract GST when sold, although most will be GST free to end consumers, being part of a supply of a hospital treatment or medical service.

A list of the major products supplied by Stryker is given in Public Appendix A, together with their relative WST and GST status.



## **Overall Impact of the New Tax System Changes**

The majority of Stryker's costs relate to the import of products, the costs of which will not change as a result of the NTS.

However, Stryker has undertaken an exercise to identify its likely costs savings arising from the NTS, and its Implementation and Compliance Costs incurred.

Stryker has followed the ACCC's Guidelines, and will also pass on all cost savings identified, less Implementation and Compliance Costs incurred, to its customers.

As Stryker's Implementation and Compliance Costs exceed the anticipated savings likely to be obtained, Stryker's prices as at 1 July 2000 will remain unchanged (before the addition of GST, where applicable).

Actual savings achieved, less Implementation and Compliance Costs incurred, will be passed on to Stryker's customers in future price adjustments.

## **II Stryker's Core Commitments**

This Commitment is submitted for and on behalf of Stryker Australia Pty Ltd and its controlled entity as listed in Public Appendix B.

The Commitment confirms that Stryker is:

- complying with Part VB of the Trade Practices Act 1974, regarding price exploitation;
- not engaging in price exploitation in relation to the NTS reforms, as defined in the part VB and expanded in the ACCC's Guidelines;
- complying with the ACCC's Guidelines;
- passing on to consumers all net cost benefits realised as a result of the NTS;
- displaying its prices exclusive of GST and in a manner which is not misleading and deceptive; and

Stryker is also committed to maintaining its current working relationship with the ACCC.

### **III Cost Savings Identification and Pass Through**

#### **Introduction**

Stryker has undertaken a major exercise to identify NTS related cost savings to enable it to pass on these savings to its customers.

This exercise has included:

- Identifying purchases on which WST will no longer need to be paid;
- Identifying costs which will directly reduce from the abolition of WST;
- Applying a savings identification model to Stryker's business costs to identify embedded savings and allocate such savings to its products;
- Communicating with Stryker's suppliers to obtain confirmation of likely cost savings;
- Re-pricing products to pass through savings, where appropriate; and
- Educating staff and customers as to the reasons for the price changes.

The detailed methodology used for the pass through of savings and compliance with the TPA and Guidelines has been disclosed to the ACCC.

#### **Cost Savings and the Pass Through of Savings**

Stryker expects to receive cost savings as a result of the NTS changes and the removal of WST and other indirect taxes.

These savings will be a combination of direct savings arising from the elimination of WST on products purchased directly and indirect savings from suppliers who received cost savings from the NTS reforms.

Stryker has employed PricewaterhouseCoopers to model Stryker' business costs, to assist in the identification and estimation of the costs savings which may arise from the NTS reforms.

These estimated savings will be passed through to Stryker's customers in accordance with the ACCC Guidelines.

Stryker will continue to monitor its costs and liaise with its suppliers in the period following 1 July 2000 to ensure that all ongoing NTS related cost savings are identified and passed on to its customers.

Where estimates have been used to set prices, these estimates will be reconciled to the actual cost savings once these are identified and realised.

Stryker will therefore be able to adjust prices as necessary to reflect the actual cost savings received.

Stryker will review the necessity of changing prices to reflect actual cost changes at intervals of no less than six months.

### **Supplier Program**

Stryker has written to all its major suppliers, drawing their attention to the NTS and seeking their advice as to expected cost savings to be passed on.

This communication program has been designed to maximise the information available to all parties in the supply chain and allow the identification and pass through of NTS related cost savings.

Responses have been collated and reviewed against the findings from the savings model, and where differences exist, discussions held with the supplier and the reasons for the difference noted.

### **Staff and Customer Information**

Stryker has established a comprehensive training and information program for all staff to educate them as to the changes under the NTS, so that they are properly equipped to respond accurately to customers' questions.

Should staff members be unable to respond to specific questions, they will refer the customer to Stryker's Head Office, where appropriately trained personnel will be able to respond.



## **Display prices**

In accordance with the ACCC Guidelines, and in line with standard industry practice, Stryker will state the GST exclusive price, for each of its products on all price lists, quotations and other correspondence containing pricing information, together with information detailing each product's GST status.

## **Pricing Principles**

In establishing revised prices for its products under the NTS, Stryker will:

- Ensure that all costs savings achieved are passed on to its customers;
- Seek to maintain its \$ margin in accordance with the TPA and ACCC Guidelines;
- Not mark up any GST component of any price;
- Regularly review prices to ensure that costs savings achieved are passed on to its customers as soon as is practical.

## **Implementation and Compliance Costs**

In calculating its Implementation and Compliance Costs Stryker will:

- Include only those Implementation and Compliance Costs directly attributable to the NTS changes; and
- Offset any compliance cost reductions arising from the removal of the previous tax system.

Where these costs are of a capital nature the additional costs will be spread over a number of years in line with generally accepted accounting depreciation rules.

No Implementation and Compliance costs will be recouped by Stryker with effect from 1 July 2000. Stryker plans to recover these costs, net of savings achieved, in future price adjustments.



## **Complaints Handling**

Should staff members be unable to respond to specific questions, they will refer the customer to Stryker's Head Office, where appropriately trained personnel will be able to respond.

Should this not suffice, the matter will be referred to Stryker's internal ACCC Liaison Officer, who will ensure that appropriate responses are provided.

## **IV Compliance Program**

Stryker has prepared a comprehensive compliance and management program which is designed to cover the NTS and price exploitation guidelines.

The key features of the program include:

- The appointment of a senior executive responsible;
- Cost savings identification process
- Staff training in relation to the pricing changes;
- Ongoing pricing review policies;
- Enquiries and complaints response procedures; and
- Other trade practices compliance areas.

## **V Liaison with the ACCC**

Stryker is committed to complying with its obligations under the TPA and believes that liaison with the ACCC will assist it in its efforts to do so. Stryker will continue to liaise with the ACCC on a regular basis.

Stryker will liaise with the ACCC to ensure that any complaints arising from the implementation of NTS are dealt with quickly and with the full co-operation of the company.

Stryker has appointed a senior Liaison Officer, Ms Bronwen Taylor, Chief Financial Officer, as the first point of contact for the ACCC regarding this Commitment. In this capacity, Ms Bronwen Taylor, will be responsible for providing information to and addressing ACCC requests relating to the New Tax System changes.

In turn, the ACCC has informed Stryker that it will appoint an officer, as a point of contact for Stryker's contact officer.

Should the ACCC consider that an explanation is required from Stryker regarding the price of one of its products, the ACCC will contact the Stryker Liaison Officer to seek such an explanation.

## **VI Reporting and Information Provision**

Stryker will continue to inform the ACCC before making any significant price changes related to or likely to be perceived to be related to the NTS changes.

Stryker will endeavour to provide relevant information supporting the basis for those price changes.

Stryker will report to the ACCC on the actual cost savings achieved following the completion of each six month trading period until 30 June 2002, within two months of each period end.

Stryker will provide information to the ACCC, in support of any claim for net incremental implementation and compliance costs.

Stryker will ensure reports and information provided are accurate, and if necessary, independently verified by an appropriate organisation, and will be sufficiently detailed to satisfy the ACCC that its prices reflect actual costs savings achieved.



## **VII Confidentiality and the Public Register**

### **Confidentiality**

All documents and information provided in the course of negotiating this Commitment are confidential and commercially sensitive to Stryker, and will accordingly not be placed on the Public Register, with the exception of Public Appendices A and B, which may be placed on the Public Register.

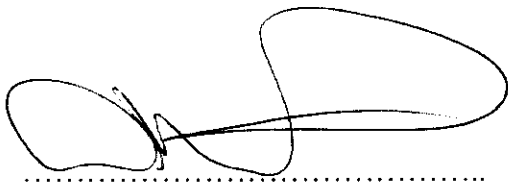
### **Public Register**

Subject to the above, Stryker welcomes this Commitment being placed on the ACCC's Public Register.

## VIII Legal Status of this Commitment

Although this document is not legally binding, Stryker will make every effort to comply with its terms, in furtherance of Stryker's commitment to compliance generally.

Signed for and on behalf of Stryker Australia Pty Ltd

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line and a smaller loop. Below the signature is a horizontal dotted line.

**Alex Kennedy**  
**Managing Director**

20 June 2000

The following table details Stryker's product categories and their tax status.

<b>STRYKER AUSTRALIA PRODUCTS LISTING</b>		<b>GST STATUS</b>
<b>ORTHOPAEDIC IMPLANTS</b>		
<b>Reconstructive Products</b>	Hips	Taxable
	Knees	Taxable
	Upper Extremities	Taxable
	Bone Cement	Taxable
	Segmental Reconstruction	Taxable
<b>Trauma</b>	IM Nails	Taxable
	Plates and Screws	Taxable
	Cables	Taxable
	Internal Fixation	Taxable
	External Fixation	Taxable
<b>Spinal</b>	Screw and Rod Systems	Taxable
	Screw and Plate Systems	Taxable
	Cage System	Taxable
<b>MEDSURG</b>		
<b>Beds</b>	ICU	GST Free
	Ward	GST Free
	Maternity	GST Free *
	Aftermarket	GST Free
	Accessories	GST Free *



STRYKER AUSTRALIA PRODUCTS LISTING		GST STATUS
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**MEDSURG**

<b>Stretchers</b>	Core	GST Free
	Specialty	GST Free

**Endoscopy**

**Arthroscopy**

Arthroscopes	Taxable
Cutters	Taxable
Powered Instruments	Taxable
Manual Instruments	Taxable
Biomedical/ACL	Taxable
Mainstay	Taxable
Orthopaedic Pumps	Taxable
Service	Taxable

**General Surgery**

Laparoscopes	Taxable
Insufflators	Taxable
Manual Instruments	Taxable
Resposable Instruments	Taxable
Suction Irrigator	Taxable
Service	Taxable

**Video**

1 Chip Cameras	Taxable
3 Chip Cameras	Taxable
Projectors & Cables	Taxable
Accessories	Taxable
Infravision	Taxable
Hermes	Taxable
Infomedix	Taxable
Service	Taxable
Consumables **	Taxable

**STRYKER AUSTRALIA PRODUCTS LISTING**

**GST  
STATUS**

**MED-SURG EQUIPMENT**

<b>Instruments</b>	<b>Power</b>	
	Heavy Duty	Taxable
	Micro	Taxable
	<b>Operating Room Equipment</b>	
	Competitive Burs & Blades	Taxable
	Pulsed Irrigation	Taxable
	Cement Systems	Taxable
	STIC	Taxable
	Cast Room	Taxable
	Service	Taxable
	Constavac	Taxable
	CBC/CBCII	Taxable
	Steri-Shield	Taxable
	Other	Taxable
	<b>Leibinger Reconstruction Equipment</b>	
	Cranio-Maxillofacial	Taxable
	Stereotaxy	Taxable
	ENT	Taxable
	Bone Source	Taxable
	Other	Taxable

\* Stryker considers that these items will be GST Free, but has applied for Private Rulings from the Australian Tax Office to confirm this.

\*\* These consumable items are the only ones which contain a direct element of WST in their cost to Stryker.

**Stryker Australia Pty Ltd**  
**Public Compliance Commitment**



Public Appendix B  
Stryker Entities making this Commitment

The following entities jointly and severally make this commitment:

<b>Name</b>	<b>ACN</b>	<b>ABN</b>
Stryker Australia Pty Ltd	002 873 850	48 002 873 850
Pficonprod Pty Ltd (100% subsidiary of Stryker Australia Pty Ltd)	000 561 615	40 000 561 615