



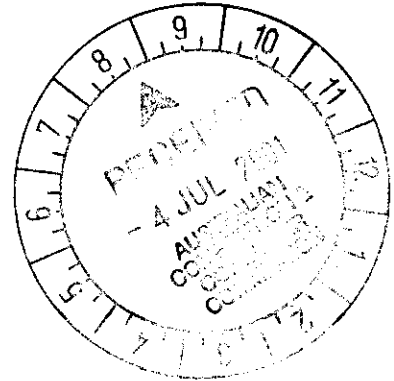
TRADE PRACTICES ACT 1974

UNDERTAKING TO THE AUSTRALIAN COMPETITION & CONSUMER COMMISSION GIVEN FOR THE PURPOSE OF

SECTION 87B

BY

ARCHERY WIZARD AUSTRALIA
ABN 96 599 385 595



BACKGROUND

1. Randall Wellings and Ed Hollingworth carry on the business of Archery Wizard Australia ABN 96 599 385 595 ("Archery Wizard"). Archery Wizard is the sole Australian importer and distributor of archery products manufactured by United Kingdom manufacturer, Merlin Bows.
2. Archery Wizard is managed by Mr Randall Wellings. Mr Ed Hollingworth does ~~not~~ take an active role in the business. Archery Wizard has no other employees.
3. In or about February 2001, Archery Wizard sent to a number of Australian archery retailers a letter with an attached price list offering the retailers the opportunity to become retailers of Merlin Bows.
4. A subsequent letter was sent to interested retailers which attached an amended pricing schedule. This letter expressly stated that the recommended retail price as supplied was to be "stringently adhered to".
5. On 26 March 2001, the Commission advised Archery Wizard of its view that its conduct breached section 48 of the *Trade Practices Act 1974* ("the Act").
6. Archery Wizard acknowledges that section 48 of the Act and the Competition Code of Queensland ("the Code") prohibits the practice of resale price maintenance, which includes the practice of setting a minimum price at which resellers should advertise, display or offer their goods for sale, and below which the goods cannot be sold.
7. Archery Wizard admits that its conduct breached section 48 of the Act and/or the Code. Archery Wizard was unaware that the conduct contravened the Act and the Code and Archery Wizard did not engage in the conduct with the intent of contravening either the Act or the Code.
8. Mr Wellings requested that the Commission accept court enforceable undertakings from Archery Wizard pursuant to section 87B of the Trade Practices Act 1974.

COMMENCEMENT OF UNDERTAKING

9. This undertaking comes into effect when:
- a) the undertaking is executed by Archery Wizard; and
 - b) the Commission accepts the undertaking so executed.

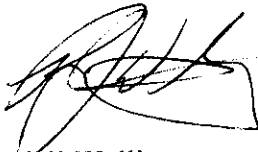
UNDERTAKINGS

10. Archery Wizard undertakes to the Commission for the purpose of section 87B of the Act:
- (i) It will not by itself, its directors, servants, agents or howsoever engage in resale price maintenance;
 - (ii) It will:
 - (a) within 21 days of the date of this undertaking write to all of its current Merlin Bows retailers and specifically draw their attention to the following:
 - Archery Wizard does not in any way seek to control the price at which retailers sell Merlin Bows archery products to their customers; and
 - Retailers are free to sell Merlin Bows at any price they wish;
 - (b) specify in all price lists for Merlin Bows archery products words to a similar effect to those in (a); and
 - (c) ensure that new Merlin Bows retailers appointed by Archery Wizard are notified in writing at the time of their appointment of their policy in this respect.
 - (iii) It will provide written confirmation that these changes have been made to the Brisbane office of the Commission within 28 days of the date of this undertaking.
 - (iv) Archery Wizard will take all reasonable steps to ensure that it makes itself, its directors, servants, and agents aware of the provisions of the *Trade Practices Act 1974* especially in regard to resale price maintenance and issues that are relevant to small business.

ACKNOWLEDGMENTS

11. Archery Wizard acknowledges the Commission's right to make this undertaking available for public inspection and notes that the Commission may, at its absolute discretion, from time to time publish and publicly refer to this undertaking.
12. Archery Wizard acknowledges and accepts that this undertaking in no way derogates from the rights and remedies available to any other person arising from the conduct of Archery Wizard.

Signed by



Randall Wellings

This 30 day of ^{JUNE}~~May~~ 2001

Signed by



Ed Hollingworth

This 30 day of ^{JUNE}~~May~~ 2001

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



(Professor Allan Fels)

Chairman

This 18 day of ^{JUNE}~~May~~ 2001

