

**UNDERTAKING TO THE AUSTRALIAN COMPETITION AND
CONSUMER COMMISSION GIVEN FOR THE PURPOSE OF
SECTION 87B**

BY

**PACIFIC OPTICS PTY LTD
ACN 064 312 107**

BACKGROUND

1. Pacific Optics Pty Ltd ("Pacific Optics") is incorporated in the State of Queensland. Pacific Optics' principal activity is the importing and wholesaling of sunglasses under its registered trademarks Aerial Vision, Focus Eyes and Stylemaster.
2. Consumer Protection Notice Number 15 of 1993 declared a Consumer Product Safety Standard for Sunglasses and Fashion Spectacles: Safety Requirements pursuant to section 65E(1) of the Trade Practices Act ("the mandatory standard") effective from 11 August 1993.
3. In July 1996 the Australian Competition and Consumer Commission ("the Commission") received a complaint that labels on and attached to a pair of Aerial Vision yellow lensed wrap glasses ("the glasses") were misleading in that the glasses were not suitable for driving and that the glasses would not meet the mandatory standard. A label on the lens read "Driving" when the glasses were not suitable for driving. Further a swing tag attached to the frame read, in part, "... Australian Standard 1067-1009 Under this standard these glasses are categorised General purpose Sunglasses ..." when the glasses would not meet the mandatory standard.
4. On 12 August 1996 Pacific Optics advised the Commission that it had recalled the glasses and provided other information to the Commission about its sunglasses suggesting that some Pacific Optics sunglasses may be in breach of the mandatory standard.
5. Following its investigation, the Commission considered that Pacific Optics made misleading and false representations about the glasses. The Commission also considered that Pacific Optics had supplied sunglasses that did not meet the lens requirements of the mandatory standard and/or were not labelled in accordance with the mandatory standard. The Commission considered that Pacific Optics' conduct in labelling the glasses

as being suitable for driving and meeting the mandatory standard and when this was not the case, constituted breaches of sections 52, 53(a) and 53(c) of the Trade Practices Act 1974 ("the Act"). The Commission also considered that Pacific Optics' conduct by supplying sunglasses which do not comply with the mandatory standard constituted a breach of section 65C(1)(a) of the Act

6. Pacific Optics acknowledges that it may have contravened the Act.

UNDERTAKINGS

7. Pacific Optics gives the following undertakings to the Commission for the purpose of section 87B of the Act. Pacific Optics undertakes that:
 - (i) it will complete the recall of Aerial Vision yellow lensed wrap glasses by 8 November 1996;
 - (ii) it will complete a three phase program to appropriately re-label the four types of sunglasses that passed testing by Unisearch Ltd identified as 96065/1, 96065/4, 96065/6, and 96065/7 which are in the hands of its distributors and retailers, by 8 November 1996:
 - (iii) in future it will not make false or misleading representations about the glasses and sunglasses it supplies; and
 - (iv) in future it will only supply sunglasses that comply with the mandatory standard.

ACKNOWLEDGMENTS

8. Pacific Optics acknowledges the Commission's right to make the undertaking publicly available for inspection and its right to publicise the matter.
9. Pacific Optics acknowledges that the Commission will issue a media release and will from time to time publicly refer to the undertaking.
10. Pacific Optics acknowledges and accepts that this undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

IN WITNESS OF THIS UNDERTAKING

This *19TH* day of September 1996

THE COMMON SEAL of PACIFIC OPTICS PTY LTD



(was affixed in accordance with its Articles)

Greg Yorath

Secretary
Name (printed):

GREG YORATH

Chris Bissiotis

Director
Name (printed):

CHRIS BISSIOTIS

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

Alan Ash

Chairperson

This *16th* day of *October* ~~September~~ 1996