

20/12/96 H

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

GIVEN BY

**SOUTHERN FOODSERVICE PTY. LIMITED
(ACN 009 580 752)**

BACKGROUND

1. Southern Foodservice Pty. Limited ("the Company") is a distributor of frozen food to retailers, such as restaurants, hotels and take-away outlets which utilise the product in the preparation of meals or snack food for retail sale to the public.
2. The Company sells its product in Southern Tasmania.
3. The Company, from not later than October 1991 and regularly thereafter until March 1995, made a number of price fixing arrangements which included chips, poultry, scallops and flake. Some of these arrangements were put into effect.
4. The conduct set out in paragraph (3) contravened section 45 (by way of 45A) of the Trade Practices Act 1974.
5. In proceedings instituted by consent in the Federal Court of Australia (TG 19 of 1996) by the Australian Competition and Consumer Commission ('the Commission') on 9 July 1996, the Company admitted that it had engaging in price fixing conduct contrary to section 45 of the *Trade Practices Act 1974*.

UNDERTAKINGS

6. Southern Foodservice Pty. Limited gives the following undertakings to the Australian Competition and Consumer Commission for the purposes of section 87B of the *Trade Practices Act 1974*, being that, for the period of five years from the date of this undertaking, the Company will:
 - A. On a regular basis, not being more than one year apart, provide Trade Practices Act compliance training to all of its employees, servants or agents who occupy managerial, sales or buying positions. Such training to be:
 - a) conducted by a solicitor or other person suitably qualified to provide knowledgeable Trade Practices Act compliance training;
 - b) not less than six hours in duration spread over not more than two consecutive days;
 - c) provided, in the first instance, within two months of the date of this undertaking.
 - B. Within two months of the date of this undertaking, produce, or otherwise acquire, a comprehensive Trade Practices Act compliance manual. Such compliance manual to include within it:



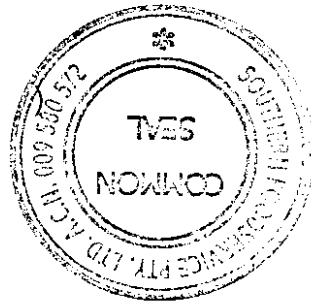
- a) a description of the Company's and an employee, servant or agents responsibilities, obligations and liability under the Trade Practices Act;
 - b) a copy of this undertaking;
 - c) a copy of any Court orders issued in respect of the proceedings referred to in paragraph 3;
 - d) an unequivocal statement that the board of directors of the Company do not condone and will not authorise its employees, servants or agents to engage in conduct that contravenes the Trade Practices Act.
- C. The manual referred to in paragraph (B) is to be submitted to a solicitor for review and updating annually, and where alteration to the manual is made, the Company will take all reasonable measures to ensure that manuals issued, or to be issued, to employees, servants or agents of the Company are appropriately modified.
- D. Within two months of the date of this undertaking, provide to each employee, servant or agent (irrespective of the position held), a copy of the compliance manual referred to in paragraph (B),
- E. Upon the appointment of any employee, servant or agent (irrespective of the position appointed), provide to that person a copy of the compliance manual referred to in paragraph (B).
- F. Examine its practices, procedures and policies to ensure that they comply with the provisions of the Trade Practices Act. Such examination will:
- a) be conducted by a solicitor who will be accorded the Company's full cooperation;
 - b) culminate in a written report, prepared by the examining solicitor, which will:
 - (i) be completed within two months of the date of this undertaking;
 - (ii) include a description of the scope and methodology of the examination;
 - (iii) set-out the findings of the examination;
 - (iv) include recommendations as regard the practices, procedures and policies of the Company;
 - (v) be submitted to the board of directors of the Company and to the Commission upon the reports completion;
 - (vi) be considered by the board of directors of the Company.
 - (vii) be responded to in detail and in writing by the Company. Said response to be provided to the examining solicitor and the

Commission within one month of the report being submitted to the board of directors of the Company.

7. The Company acknowledges that the Australian Competition and Consumer Commission will make the undertaking available for public inspection;
8. The Company acknowledges that the Australian Competition and Consumer Commission will from time to time publicly refer to the undertaking.
9. The Company 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 THESE UNDERTAKINGS

THE COMMON SEAL OF)
SOUTHERN FOODSERVICE PTY. LIMITED)
was hereunto affixed by authority)
of the Board of Directors)
previously given in the presence of:



MANAGING DIRECTOR

This 11 day of October 1996.

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

CHAIRPERSON

This 30 day of April 1996.

THIS UNDERTAKING GIVEN BY SOUTHERN FOODSERVICE PTY. LIMITED (ACN 009 580 752) IS ACCEPTED BY THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION PURSUANT TO SECTION 87B OF THE TRADE PRACTICES ACT 1974.



CHAIRPERSON
PROFESSOR ALLAN HERBERT MILLER FELLS

This 30 day of April 1996.