

96/53C

**TRADE PRACTICES ACT 1974**

**UNDERTAKING TO THE AUSTRALIAN COMPETITION & CONSUMER  
COMMISSION GIVEN FOR THE PURPOSES OF  
SECTION 87B**

**BY**

**PROCTOLOGY CENTRES OF AUSTRALIA PTY LTD**  
(ACN 069 331 960)

## TRADE PRACTICES ACT 1974 - SECTION 87B

### UNDERTAKING

#### BACKGROUND

1. Proctology Centres of Australia (PCA) carries on business, in trade or commerce, as a provider of services for the treatment of haemorrhoids.
2. The Australian Competition and Consumer Commission (the Commission) has investigated a complaint against PCA regarding representations it has made in advertisements and to patients.
3. The Commission considers, and PCA accepts, that representations were made in advertisements in the Daily Telegraph and Sunday Telegraph newspapers and/or to patients by PCA employees that the following features applied to the PCA treatment for haemorrhoids:
  - (a) "100% successful" or "100% effective";
  - (b) "Minimal Discomfort" or "No Pain";
  - (c) "Walk In Walk Out" or "Instant Relief";
  - (d) "Treatment in Minutes";
  - (e) "Only One Visit"; and
  - (f) "Highly effective".
4. PCA acknowledges that:
  - (a) The treatment may be unsuccessful in some cases;
  - (b) In some cases pain and discomfort may be experienced;
  - (c) While the average treatment time is 15 to 20 minutes in some cases it can take longer;
  - (d) In some cases more than one visit may be necessary; and
  - (e) The procedure is new and as yet has not been scientifically validated by long term studies.

5. The Commission considers that, in making the representations set out in paragraph 3 above, PCA may have engaged in misleading or deceptive conduct in contravention of section 52 of the *Trade Practices Act 1974* (the Act) and made false or misleading representations in contravention of sections 53(aa) and 53(c) of the Act.
6. PCA has agreed to give the undertakings contained herein to the Commission under section 87B of the Act to redress the Commission's concerns in relation to the representations referred to above.

### **UNDERTAKINGS**

7. PCA will not make representations to its customers or patients, that its treatment for haemorrhoids, described in the terms:
  - (a) "100% successful" or "100% effective" or "Highly effective";
  - (b) "Minimal Discomfort" or "No Pain";
  - (c) "Walk In Walk Out" or "Instant Relief";
  - (d) "Treatment in Minutes"; and
  - (e) "Only One Visit";

unless the representations are qualified to state that:

- (i) the treatment in some cases may not be successful;
- (ii) the treatment in some cases may cause pain and discomfort;
- (iii) the patient may not be in a position to resume normal activities immediately after the treatment or the day or days following the treatment;
- (iv) sometimes the treatment could take more than 20 minutes; and
- (v) sometimes the patient may have to attend for treatment on more than one occasion.

### **Corrective Advertisement**

8. Within 21 days of the commencement of this undertaking, PCA will at its own expense place an advertisement in the form and terms of the annexure hereto in each of the following newspapers:
  - (a) Daily Telegraph (twice during the week);
  - (b) Sunday Telegraph (once); and
  - (c) Daily Telegraph (twice during the following week).

9. The advertisements referred to in paragraph 8 above will be:
- (a) At least 2 columns by 15 centimetres;
  - (b) In at least 10 point text; and
  - (c) Placed in the newspapers within the early general news pages and within the first 30 pages of each newspaper.

A copy of the advertisements so placed will be supplied to the Commission within 7 days of the publishing of the advertisement.

#### **Validation of claims**

10. PCA will not to make representations about the effectiveness or delivery of any medical treatment unless it is in a position to objectively substantiate the representations.

#### **Staff Instructions**

11. PCA will produce a set of written instructions for staff on responding to consumer inquiries to ensure accurate information is provided on the effectiveness and delivery of the treatment. The instructions should be submitted to the Commission for approval within one month of signing the undertaking.

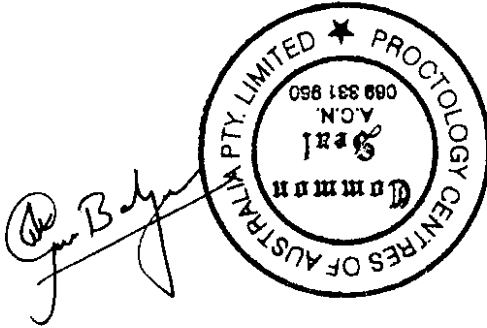
#### **ACKNOWLEDGEMENTS**

12. PCA acknowledges the Commission's right to make this undertaking available for public inspection.
13. PCA acknowledges that the Commission will issue a press release which will be provided to PCA prior to its release, and that the Commission may from time to time publicly refer to this undertaking.
14. PCA acknowledges and accepts that the undertaking in no way derogate from the rights and remedies available to any other person arising from the matter.

IN WITNESS OF THIS UNDERTAKING

This 26 day of November 1996

THE COMMON SEAL of Proctology )  
Centres of Australia Pty Ltd )  
(ACN 069 331 960) was affixed in )  
accordance with its Articles of )  
Association in the presence of )



.....  
Signature of Authorised Person

Office Held: DIRECTOR

Name of Authorised Person  
(BLOCK LETTERS)  
J. VAISMAN

.....  
Signature of Authorised Person

Office Held:

Name of Authorised Person  
(BLOCK LETTERS)

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

.....  
(Professor Allan Fels)  
Chairperson

This 30 day of November 1996

## Corrective Advertisement.

PCA logo

ACCC logo

This corrective advertisement has been placed at the request of the Australian Competition and Consumer Commission.

Past advertising by PCA about its haemorrhoid treatment has used such terms as "walk in/walk out", "in minutes" and of "minimal discomfort".

This may have wrongly suggested that the procedure is simple and painless in all cases. In *most* cases patients will suffer little or no pain and discomfort and be able to resume normal functioning immediately.

However, in some cases pain and discomfort may be experienced.

In addition, while the average treatment time is 15-20 minutes, in some complicated cases the treatment can take a little longer.

PCA advertisements have also claimed that the treatment is highly effective. PCA believes that results obtained confirm that its treatment is highly effective. However, it acknowledges that the procedure is new and has not yet been scientifically validated by long term studies.

Patients who consider that their treatment has not been fully effective should contact the following number to apply for a refund.