

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

**BY
TURNING POINT (AUST) PTY LTD
ACN. 005 294 664**

BACKGROUND

Turning Point (Aust) Pty Ltd (ACN. 005 294 664) (Turning Point) is a company, incorporated in the State of Victoria, and describing its business as fashion sales coordination.

Following an investigation by the Australian Competition and Consumer Commission (the Commission), Turning Point was informed that the Commission considered that Turning Point had contravened the Trade Practices Act 1974 (the Act). The Commission considers that the labelling of certain boys' shirts supplied by Turning Point contained false representations as to the country of origin of the shirts in contravention of section 53(eb) of the Act.

The Commission's investigation was prompted by a complaint from a consumer regarding the labelling of a shirt purchased from a Big W store. The shirt's neck label and swing tag stated "Made in Australia". It was apparent from stitching marks and loose threads that another label had been removed. A label on the side of the shirt stated "Made in India". The Commission's investigations confirmed that such shirts were on sale in Big W stores.

On 20 September 1996, Big W was advised of the incorrectly labelled shirts and acted in a timely fashion to withdraw the incorrectly labelled shirts from sale. Big W advised Turning Point of the Commission's investigation.

On 14 October 1996 the Commission advised Turning Point of its view that the incorrectly labelled shirts were a false representation in contravention of section 53(eb) of the Act. Mr David Trevethan, the Managing Director of Turning Point, explained that the mislabelling occurred when Big W re-ordered Indian-made shirts which it had purchased previously. Turning Point offered to supply 700 locally-made shirts left over from a previous Myer order, and labelled with a registered Myers name. These shirts required a change of tickets and labels. A member of Turning Point's staff inadvertently mixed in seventy-three Indian shirts into the order. All the shirts were then labelled as being made in Australia.

Turning Point acknowledges that its conduct contravened the Act and has now ceased the conduct. Turning Point has implemented procedures to minimise the risk of breaching the Trade Practices Act in future.

UNDERTAKINGS

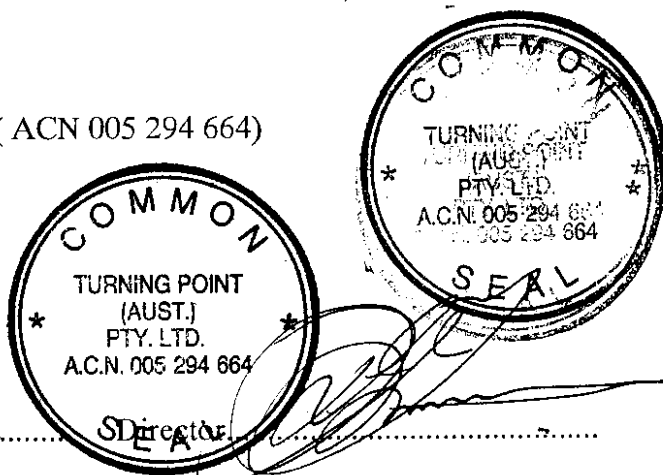
Turning Point undertakes for the purposes of section 87B of the Act:

1. That it will not represent that fashion items supplied by it are made in Australia, Australian made, product of Australia and/or produced in Australia when:
 - (a) the place of origin of the entire product or the bulk of the components or ingredients of the product or a significant component or ingredient of the product is not Australia; or
 - (b) the place at which substantially all the manufacturing or production processes involved in the manufacture or production of the product or a significant part of the manufacturing or production processes takes place is not Australia.
2. Turning Point will ensure that its labelling, packaging, advertising and promotional material does not represent a product as having been made in Australia, Australian made, product of Australia and/or produced in Australia when:
 - (a) the place of origin of the entire product or the bulk of the components or ingredients of the product or a significant component or ingredient of the product is not Australia; or
 - (b) the place at which substantially all the manufacturing or production processes involved in the manufacture or production of the product or a significant part of the manufacturing or production processes takes place is not Australia.
3. That if Turning Point has any doubt as to whether a representation of the country of origin of a product may be false or misleading, it will seek legal advice from a suitably qualified legal practitioner.
4. That by 31 December 1996 Turning Point will review its operations and take all necessary steps to ensure that care is taken in the labelling of goods in order to minimise the risk of potential trade practices transgressions arising in the future.
5. That by 31 December 1996 Turning Point will arrange for its staff to be trained about the company's obligations under the Act to a level where they can avoid obvious contraventions and identify more complex potential trade practices problems for referral to management.
6. That by 31 January 1997 the training referred to in paragraph 5 will have been completed.
7. That by 14 February 1997, Turning Point will provide the Commission with a brief report detailing action taken pursuant to paragraphs 4, 5 and 6.

ACKNOWLEDGMENTS

- 8. Turning Point acknowledges and accepts that the Commission will make the undertaking available for public inspection.
- 9. Turning Point further acknowledges that the Commission may from time to time publicly refer to this undertaking.
- 10. Turning Point further acknowledges 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 and its agreement the common seal of TURNING POINT (AUST) PTY LTD (ACN 005 294 664) was hercunto affixed by authority of the Board of Directors in the presence of:



Secretary/Director..... *[Signature]* *[Signature]*
SDirector

This 26th day of November 1996

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

[Signature]
.....
(Professor Allan Fels)
Chairman

This 30th day of November 1996
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