



TRADE PRACTICES ACT 1974

UNDERTAKING TO THE TRADE PRACTICES COMMISSION GIVEN PURSUANT TO SECTION 87B

BY

CONTINENTAL CUP COMPANY PTY LIMITED

(A.C.N. No. 010 719 347 of 37-43 Eurora Street Kingston in the State of Queensland)

BACKGROUND

Continental Cup Company Limited ("CCC") is a large manufacturer of paper cups in Australia, producing and distributing some 170 million paper cups annually.

Following an investigation by the Trade Practices Commission ("TPC"), CCC was informed that the TPC considered that the environmental marketing claims printed on its "Home Brand" poly coated paper cups may be misleading and deceptive.

The "Home Brand" poly coated paper cups manufactured by CCC is approximately 5 per cent of its annual paper cup production.

The TPC has stated that CCC represented that its "Home Brand" paper cups were recyclable by printing a logo on the paper cups, displaying a pine tree symbol and the words, "Environmentally Friendly ... Recyclable", and the TPC contends that no facility exists in Australia for recycling poly coated paper products. The TPC contends that these representations may be false and misleading in contravention of sections 52, 53(a), 53(c) and 55 of the Trade Practices Act 1974.

Although these contentions have not been subject to judicial determination, CCC has ceased printing the words "Environmentally Friendly ... Recyclable", and the pine tree symbol, on its "Home Brand" poly coated paper cups and has co-operated with the TPC by offering enforceable undertakings.

UNDERTAKING

CCC undertakes for the purposes of section 87B of the Trade Practices Act 1974:

1. Not to include the words "Environmentally Friendly ... Recyclable" or words and/or symbols to similar effect on its "Home Brand" paper cups or any similar product until such time as a viable and significant collection and recycling facility is generally available for this purpose in the location where the cups are intended to be sold;
2. To take immediate action to ensure that "Home Brand" paper cups displaying the words "Environmentally Friendly ... Recyclable" are not further distributed;
3. To take immediate steps to notify all wholesalers/ resellers to return all "Home Brand" poly coated paper cups displaying the words "Environmentally Friendly ... Recyclable" and to maintain and support this recall for a period of one month from notification;
4. To issue notices as a separate mailing to wholesalers/resellers that correct any misleading impressions created concerning the environmental impact of the cups;
5. To display advertising in newspapers, the size of which will be in the order of 60 cm² (10 cm x 6 cm), to correct any misleading impressions created concerning the environmental impact of the paper cups. Such advertising to be displayed in a major metropolitan daily newspaper in Brisbane, Sydney and Melbourne, such advertisement to be approved in writing by the Regional Director of the Trade Practices Commission office Brisbane prior to publication; and
6. To obtain an audit report from an independent third party (approved in writing by the TPC) attesting to the completion of all elements of the undertaking. The audit report obtained by the independent third party will be prepared in writing and shown and provided to the TPC within two months of the undertaking being signed.

CCC acknowledges and accepts that this undertaking will be placed on the Commissioner's public register and agrees that the TPC may otherwise publish and/or refer to this document at its discretion.

CCC also notes that this undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

GIVEN under the Common Seal of
CONTINENTAL CUP COMPANY PTY LIMITED)
by authority of a resolution
of the Board of Directors
under the hands of a Director
and the Secretary who certify
that they are the proper
officers to affix this seal
and in the presence of:

.....
Director

D. J. Kennan
Secretary

Shorell Smith J.P.



A Justice of the Peace/Solicitor

This *3rd* day of *August*, 1993

ACCEPTED BY THE TRADE PRACTICES COMMISSION PURSUANT TO SECTION
87B OF THE TRADE PRACTICES ACT 1974

MS
.....
Chairman

This *9th* day of *August*, 1993