

**Undertakings to the Commerce Commission under
s 46A of the Fair Trading Act 1986**

Strange Hooper Castles Limited (trading as WORLD)

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1. Persons giving Undertakings

- 1.1 These Undertakings are given to the Commerce Commission (**Commission**) for the purposes of s 46A of the Fair Trading Act 1986 (**FTA**) by Strange Hooper Castles Limited (trading as **WORLD**) (Company Number 9429032764291), a company incorporated in New Zealand having its registered office at 8a Pitt Street, Auckland (**WORLD**).
- 1.2 **WORLD** is a New Zealand based clothing designer and retailer.

2. Commission's Investigation

- 2.1 These Undertakings serve to resolve the Commission's investigation into **WORLD's** tags on certain garments it offered for sale which were manufactured overseas.
- 2.2 The investigation resulted from a 7 May 2018 media article alleging that **WORLD** was offering for retail sale certain garments labelled with tags reading "*Fabrique en Nouvelle-Zelande*" (translating as "made in New Zealand"), when the garments had in fact been manufactured in China or Bangladesh (**overseas garments**). These tags were designed for branding **WORLD** as a New Zealand business and were misleading when used also on the overseas garments.
- 2.3 Labelling stitched within each overseas garment, meeting the requirements of the Consumer Information Standard (Country of Origin (Clothing and Footwear) Labelling) Regulations 1992 accurately represented the place of manufacture.
- 2.4 **WORLD** acted immediately to correct the false or misleading representation by retagging the overseas garments.
- 2.5 The Commission considers that the conduct is likely to have breached section 13(j) of the Fair Trading Act 1986, through being liable to mislead the public as to the place of origin of the overseas garments. The Commission is of the view that the overall impression as to origin was liable to mislead, and that the accurate internal garment labels would at best result in customer confusion and at worst be overlooked by consumers.
- 2.6 **WORLD** accepts the Commission's assessment of likely breach of section 13(j) of the FTA.
- 2.7 To resolve the investigation, **WORLD** has agreed to provide enforceable undertakings to ensure that all clothing it offers for sale in the future is accurately tagged and continues to be correctly labelled as to its country of origin.

3. Purpose of the Undertakings



- 3.1 These Undertakings are given by WORLD in order to satisfy the Commission that it has remedied the Commission's concerns and that it will in future accurately represent the country of origin of all garments it offers for sale.

4. Undertakings

- 4.1 WORLD undertakes to the Commission that it will:
- 4.1.1 not use any tag or labelling bearing the phrase "Fabrique en Nouvelle Zelande" on any overseas garments it offers for sale;
 - 4.1.2 refund any customers who return overseas garments to WORLD and who purchased the overseas garments under the impression they were made in New Zealand; and
 - 4.1.3 implement compliance procedures to ensure that any representations it makes about the origin of its products are accurate, able to be substantiated and are not capable of misleading consumers.

5. Effect of the Undertakings

- 5.1 The Undertakings are Court enforceable undertakings in terms of s 46A of the FTA.

6. Commencement of Undertakings

- 6.1 The Undertakings come into effect when:
- 6.1.1 the Undertakings are executed by WORLD; and
 - 6.1.2 the Commission confirms its acceptance of the Undertakings.

7. Variation of the Undertakings

- 7.1 The Commission and WORLD can agree at any time to vary the Undertakings.
- 7.2 No variation to the Undertakings will be effective unless it is in writing, executed by WORLD, and signed as accepted by the Commission.

8. Duration of the Undertakings

- 8.1 These Undertakings will continue to have effect until the earlier of:
- 8.1.1 the Commission for any reason discharging WORLD from the Undertakings; or
 - 8.1.2 five years from the date of acceptance.

9. Compliance with the Undertakings



- 9.1 If WORLD becomes aware of a breach of these Undertakings, whether advertent or inadvertent, it will notify the Commission with seven days of becoming aware, giving full particulars of the breach.
- 9.2 WORLD is to comply with all reasonable requests of the Commission in establishing whether there is compliance with the Undertakings.
- 9.3 For the avoidance of doubt, nothing in paragraphs 9.1 to 9.2 above prevents the Commission from directly seeking any information from WORLD at any time during the course of any criminal and/or civil proceedings for the purpose of checking compliance with the Undertakings.

10. Miscellaneous

- 10.1 These Undertakings are properly executed if the parties sign the same copy, or separate identical copies of the execution page. Where separate copies are signed by WORLD or the Commission, the signed copy can be the original document, or a faxed or emailed copy.
- 10.2 WORLD acknowledges that:
- 10.2.1 The Commission may make the Undertakings publicly available including by publishing them on the Commission's enforcement response register on its website.
- 10.2.2 The Commission may, from time to time, make public reference to the Undertakings including in news media statements and in the Commission's publications.
- 10.2.3 Nothing in the Undertakings is intended to restrict the right of the Commission, or the right of any other person, to take action under the FTA or under any other statute or law.

Execution

Signed by and on behalf of Strange Hooper
Castles Limited

Date: 17/10/18.

Acceptance

3372464

Accepted by the Commerce Commission by



Date: 18/10/18