



UNDERTAKING
Australian Consumer Law (SA)
Section 218

Undertaking to the Commissioner for Consumer Affairs given for the purposes of section 218 of the *Australian Consumer Law (SA)* by:

Veronica Shnoudi
ABN 19 971 647 096

1. PERSONS GIVING THIS UNDERTAKING

- 1.1. This Undertaking is given to the Commissioner for Consumer Affairs (the Commissioner) by Veronica Shnoudi, in the State of South Australia for the purposes of section 218 of the *Australian Consumer Law (SA)* (the ACL), which is adopted by the *Fair Trading Act 1987*.

2. BACKGROUND

- 2.1. Veronica Shnoudi, ABN 19 971 647 096, supplies consumer goods through the online marketplace "EBay" under the name "veronicaandcompany" (the EBay store).
- 2.2. In December 2017, an Officer from Consumer and Business Services (CBS) issued Ms Shnoudi with a written warning in relation to the supply of a baby teething toy that did not comply with the requirements of the applicable safety standard.

3. RELEVANT PROVISIONS

- 3.1. Section 106 of the ACL prohibits a person in trade or commerce from supplying, offering for supply, or manufacturing, possessing or having control of, consumer goods of a particular kind if a safety standard for goods of that kind is in force; and the goods do not comply with that standard.
- 3.2. *Consumer Protection Notice No. 14 of 2003 – Consumer Product Safety Standard: Toys for children up to and including 36 months of age as amended by Consumer Protection Notice No. 1 of 2005* (the safety standard) is the applicable safety standard.
- 3.3. The safety standard is based on and modifies Australian / New Zealand Standard AS/NZS ISO 8124.1:2002 Safety of toys Part 1: Safety aspects related to mechanical and physical properties (AS/NZS ISO 8124.1:2002).

4. CONDUCT OF CONCERN

- 4.1. On 29 May 2018, Compliance & Investigations Officers from CBS conducted online surveillance of the EBay store, where they observed teething toys advertised for sale.
- 4.2. Teething toys are captured by the safety standard, which mandates that the products comply with certain requirements such as design, construction and specific testing methods to determine their safety through foreseeable use and abuse.

- 4.3. CBS Officers purchased a teething toy labelled "Silicone ring giraffe teether baby teething safe necklace beads pram dummy gym" (Giraffe Teether) from the EBay store.
- 4.4. Section 4.5.1 of AS/NZS ISO 8124.1:2002 states that certain toys, including teethers and teething toys, shall be designed so that no portion shall be capable of entering and penetrating past the full depth of the cavity of the test template A when tested in accordance with 5.3.
- 4.5. Section 5.3 of AS/NZS ISO 8124.1:2002 provides the dimensions of the test template A and the procedure for testing.
- 4.6. Both sections 4.5.1 and 5.3 are in force through the safety standard.
- 4.7. CBS Officers subjected the Giraffe Teether to testing in accordance with sections 4.5.1 and 5.3. The head and neck of the Giraffe Teether entered and penetrated past the full depth of the cavity of test template A.
- 4.8. CBS testing showed that the Giraffe Teether failed to meet the requirements of the safety standard.
- 4.9. As a result, CBS contacted Ms Shnoudi and requested the immediate removal of all Giraffe Teethers from sale. Ms Shnoudi complied with this request.

5. CONTRAVENTIONS

- 5.1. The Commissioner considers, and Ms Shnoudi acknowledges, that by engaging in the conduct described in paragraph 4 above, it is likely that Ms Shnoudi has:
 - 5.1.1. Supplied teething toys that did not comply with a safety standard, and thereby contravened section 106(1) of the ACL.
 - 5.1.2. Offered teething toys for supply that did not comply with a safety standard, and thereby contravened section 106(2) of the ACL.
 - 5.1.3. Possessed and had control of teething toys that did not comply with a safety standard, and thereby contravened section 106(3) of the ACL.

6. VOLUNTARY RECALL

- 6.1. On the recommendation of CBS, Ms Shnoudi submitted a national voluntary recall for the Giraffe Teethers, published on 22 June 2018 by the Australian Competition and Consumer Commission (ACCC).
- 6.2. As part of their recall process, Ms Shnoudi was required to contact all consumers who had purchased Giraffe Teethers and ensure that the Giraffe Teethers were returned to her, and provide consumers with a full refund or replacement product.

7. COMMENCEMENT OF UNDERTAKING

- 7.1. This Undertaking comes into effect when:
 - 7.1.1. The Undertaking is executed by Ms Shnoudi.
 - 7.1.2. The Commissioner accepts the Undertaking so executed.

8. UNDERTAKINGS GIVEN FOR THE PURPOSES OF SECTION 218 OF THE ACL

- 8.1. Ms Shnoudi gives the following undertakings to the Commissioner for Consumer Affairs for the purposes of s 218 of the ACL:
 - 8.1.1. Ms Shnoudi will not supply, offer for supply or possess/have control of goods that do not comply with an applicable safety or information standard, in accordance with the requirements of the ACL.
 - 8.1.2. Ms Shnoudi will implement a written product safety compliance program within three (3) months from the date of this Undertaking, to ensure that:
 - 8.1.2.1. New stock does not get offered or otherwise advertised for sale until Ms Shnoudi is satisfied that it is not in breach of safety standards, information standards, or bans under the ACL.
 - 8.1.2.2. Current stock is regularly audited to ensure that it is not in breach of safety standards, information standards, or bans under the ACL.
 - 8.1.2.3. Ms Shnoudi will nominate a person responsible for the implementation and maintenance of the product safety compliance program.
 - 8.1.2.4. Ms Shnoudi will implement and conduct training for relevant staff within four (4) months of signing this Undertaking, and then annually, to ensure that the product safety compliance program is understood and complied with.
 - 8.1.2.5. Ms Shnoudi will maintain a register of staff signatures to confirm that they have undertaken the training mentioned in 8.1.2.4 and provide this to CBS within one (1) month after the initial training has been completed.

9. ACKNOWLEDGEMENTS

Ms Shnoudi acknowledges that:

- 9.1. CBS will make this Undertaking publicly available including by publishing it on CBS' public register of Undertakings on its website.
- 9.2. The ACCC may make this Undertaking publicly available by publishing it on the ACCC website and the ACCC Product Safety Australia website.
- 9.3. CBS may, from time to time, make public reference to the Undertaking including in news media statements and in CBS publications.
- 9.4. This Undertaking in no way detracts from the rights and remedies available to any other person arising from the alleged conduct.
- 9.5. This Undertaking may be produced to any Court in respect of any proceedings alleging any future contraventions of the ACL.

EXECUTED BY Ms Veronica Shnoudi



Signature (Veronica Shnoudi)

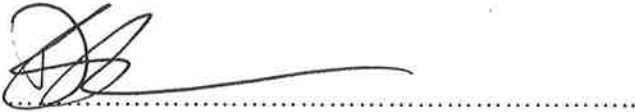
Date: 05/02/19



Signature of Witness

Name: Tareq Shnoudi

Accepted by the Commissioner for Consumer Affairs (SA) pursuant to *section 218* of the *Australian Consumer Law (SA)*.



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Commissioner for Consumer Affairs (SA)

Date: 26/2/19