

TRADE PRACTICES ACT 1974 - SECTION 87B

UNDERTAKING

PERSON GIVING UNDERTAKING

This undertaking is given to the Australian Competition and Consumer Commission ("the Commission") by Infratil Australia Limited (ACN 071 909 816) ("Infratil Australia") under section 87B of the *Trade Practices Act 1974* ("the Act").

BACKGROUND

On 7 February 1996 the Commission formed the view that the acquisition of the port business conducted at the port of Portland, Victoria, by a consortium comprising Ascot Investments Pty Limited (ACN 007 664 360) ("Ascot Investments") and Infratil Australia through Port of Portland Pty Limited (ACN 072 507 012) ("Port of Portland"), a company in which each of Ascot Investments and Infratil Australia had a 50 per cent shareholding, would be likely to have the effect of substantially lessening competition in relation to the supply of port services at the port of Portland, Victoria, in contravention of section 50 of the Act.

Infratil Australia agreed to give an undertaking to the Commission under section 87B of the Act to address the Commission's concerns in relation to the acquisition. The undertaking was executed by Infratil Australia on 6 March 1996.

The Commission agreed to accept the Infratil Australia undertaking under section 87B of the Act. The undertaking was accepted by the Commission on 22 May 1996.

On 26 March 1997 Infratil Australia advised the Commission that it proposed to acquire from Ascot Investments the 50 per cent interest in Port of Portland held by Ascot Investments. The Commission formed the view that it would not raise any objection to the proposed acquisition by Infratil Australia of the 50 per cent interest held by Ascot Investments subject to the undertaking executed by Infratil Australia on 6 March 1996 and accepted by the Commission on 22 May 1996 being replaced by a new undertaking which correctly describes the ownership of Port of Portland.

Infratil Australia has agreed to give the undertaking contained herein to the Commission under Section 87B of the Act.

The Commission has agreed to accept the Infratil Australia undertaking under section 87B of the Act.

WITHDRAWAL OF PREVIOUS UNDERTAKING

1. Infratil Australia withdraws the undertaking previously given to the Commission which was executed by Infratil Australia on 6 March 1996 and accepted by the Commission on 22 May 1996. The withdrawal of the previous undertaking takes effect from the commencement of this undertaking.
2. The Commission consents to the withdrawal by Infratil Australia of the undertaking which was executed by Infratil Australia on 6 March 1996 and accepted by the Commission on 22 May 1996.

COMMENCEMENT OF UNDERTAKING

3. This undertaking comes into effect on the execution of this undertaking by Infratil Australia and the acceptance of the undertaking by the Commission.

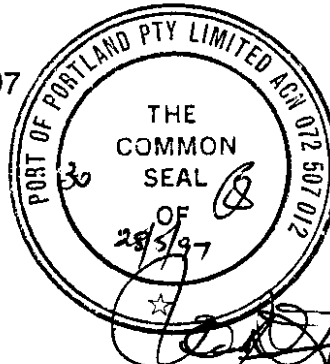
OBLIGATIONS UNDER UNDERTAKING

4. Infratil Australia will not hinder or prevent any land transport operator or freight forwarding operator, for the purposes of its business, from having access to the port of Portland and its associated facilities and if requested to do so, and where it is reasonably able to do so, Infratil Australia will give access to such operators on reasonable commercial terms which shall be non-discriminatory.
5. Infratil Australia will not conduct or hold an interest in any stevedoring, towage or provedore business in respect of the port of Portland without first giving the Commission reasonable advance notice of any such business or interest.
6. Infratil Australia will not conduct any business which uses the port of Portland for the movement by sea of goods or produce, produced by that business, and Infratil Australia will not hold an interest in any such business which gives it control of that business or entitles it to participate in more than 10 per cent of the capital or profits of that business, unless Infratil Australia first gives the Commission reasonable advance notice of that business or interest.
7. Infratil Australia will not acquire any interest in the port of Geelong in Victoria or the port of Adelaide in South Australia without first giving the Commission reasonable advance notice of such acquisition.
8. Infratil Australia will promptly notify the Commission of the details of any proposal that another person acquire an ownership interest in the port of Portland together with or in place of Infratil Australia.

9. Port of Portland will ensure that any related company controlled by Port of Portland will comply with the terms of clauses 4, 5, 6, 7 and 8 above as if that related company was expressly named.
10. Port of Portland notes that the Commission may make public the terms of this undertaking.


EXECUTED ON THE ^{30th} DAY OF MAY 1997

The common seal of Port of Portland)
Pty Limited was affixed in accordance)
with its Articles of Association:-)





Director



Secretary

ACCEPTED BY THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION



Chairperson

Dated ^{↓ n}  July 1997