

97/AIC

TRADE PRACTICES ACT 1974 - SECTION 87B

UNDERTAKING

PERSONS GIVING UNDERTAKING

This undertaking is given to the Australian Competition and Consumer Commission ("the Commission") by Australian Radio Network Pty Limited (ACN 065 986 987) ("ARN") and Austereo Limited (ACN 007 914 641) ("Austereo") jointly under section 87B of the *Trade Practices Act 1974* ("the Act").

BACKGROUND

ARN currently owns commercial radio station MIX 106.3 which broadcasts in the Canberra region and Austereo currently owns commercial radio stations FM 014.7 and 2CA which broadcast in the Canberra region.

ARN, through its wholly owned subsidiary company Capital City Broadcasters Pty Ltd (ACN 008 470 013) ("CCB"), has entered into a joint venture agreement with Austereo, by its wholly owned subsidiary company Austereo Capital FM Pty Ltd (ACN 074 733 841) ("ACFM") whereby the said Canberra commercial radio stations known as MIX 106.3, FM 104.7 and 2CA would be acquired by Canberra FM Radio Pty Ltd (ACN 074 733 823) ("Canberra FM") as agent for and on behalf of ACFM and CCB as equal tenants in common.

In discussions and communications between representatives of the Commission and representatives of ARN and Austereo in March and April 1997 in relation to the proposed acquisition, the Commission expressed concerns that the proposed acquisition of the Canberra commercial radio stations may have the effect of substantially lessening competition in a relevant market, in contravention of section 50 of the Act and ARN and Austereo proposed that, following completion of the proposed acquisition, commercial radio station 2CA would be sold to an independent third party.

ARN and Austereo have agreed to give the undertaking contained herein to the Commission under section 87B of the Act to address the Commission's concerns in relation to the proposed acquisition.

The Commission has agreed to accept the ARN and Austereo undertaking under section 87B of the Act.

INTERPRETATION

Associated body corporate has the meaning given to that expression in Part 1.2 of Division 2 of the Corporations Law.

Completion Date means 1 May 1997.

Related body corporate has the meaning given to that expression by Section 4A of the Act.

The singular includes the plural and vice versa.

A reference to a person includes a body corporate.

A reference to the doing of or refraining to do anything directly or indirectly by a body corporate shall include the doing of or refraining to do that thing by a body corporate which is a related body corporate of the body corporate referred to. Where these undertakings require ARN and Austereo to do or to refrain from doing a certain thing directly or indirectly, ARN and Austereo shall take all reasonable steps to procure that a relevant body corporate shall do or refrain from doing that thing so as to ensure that thing is done or not done, as the case may be.

COMMENCEMENT OF UNDERTAKING

1. This undertaking comes into effect in the event that the proposed acquisition proceeds and, if so, when:

- (a) the undertaking is executed by ARN and Austereo; and
- (b) the undertaking so executed is accepted by the Commission.

OBLIGATIONS UNDER UNDERTAKING

2. ARN and Austereo will cause directly or indirectly the sale, within the period ending six months from the Completion Date (“the Divesture Period”), on an arm’s length basis, of radio station 2CA including the business of radio broadcasting carried on under the radio station name 1043 2CA and the relevant commercial radio broadcasting licence to a company that is not a related body corporate or an associated body corporate of either Austereo or ARN.
3. If at the end of the Divesture Period radio station 2CA has not been sold ARN and Austereo will cause directly or indirectly the radio station to be put up for sale within 2 months of the expiration of the Divesture Period by public tender with no reserve.
4. Pending the sale of radio station 2CA in accordance with clause 2 above, ARN and Austereo will take all steps necessary to ensure that, so long as radio station 2CA is owned or controlled by ARN and Austereo, or a body corporate controlled by ARN and Austereo, it is managed and operated solely by Canberra FM in such a way that:
 - (a) the business of radio station 2CA is managed by Canberra FM in its normal and in a proper and efficient manner;
 - (b) Canberra FM uses all reasonable endeavours to preserve the goodwill of radio station 2CA;
 - (c) the business of radio station 2CA will remain free of bank or other indebtedness or liabilities outside the ordinary course of business;
 - (d) no action is taken by way of the sale or encumbrance of assets, the retrenchment of staff or similar measures which have the effect of causing damage to the viability of the business of radio station 2CA;
 - (e) no action is taken which is likely to diminish the viability of the business of radio station 2CA as a competitive commercial radio broadcaster in the Canberra region.

ARN and Austereo shall at all reasonable times provide the Commission with such information as the Commission may require in relation to:

- (a) the management and operation of radio station 2CA; and
- (b) arrangements for the sale of radio station 2CA.

- 6. Each of ARN and Austereo will ensure that any related company will comply with the terms of clauses 2, 3, 4, and 5 above as if that related company was expressly named.
- 7. ARN and Austereo note that the Commission may make public the terms of this undertaking.
- 8. If at any time following the sale of radio station 2CA pursuant to clause 2 above, ARN or Austereo, or a company related to either of them, proposes to acquire an interest in radio station 2CA, ARN or Austereo, as the case may be, will give the Commission 14 days advance notice of the entry into any agreement for such an acquisition.

EXECUTED ON THE 27th DAY OF JUNE 1997

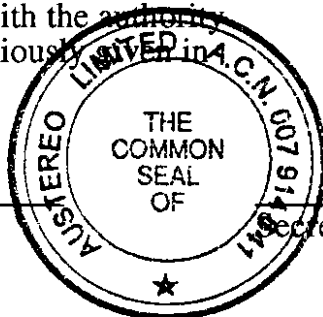
The Common Seal of Australian Radio Network Pty Limited (ACN 065 986 987) affixed with the authority of the Board of Directors previously given in the presence of:-



Vincent Cowley
Director

S. Hamilton
Secretary

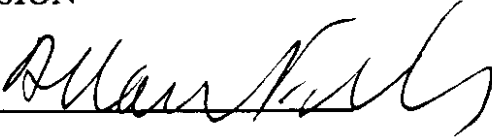
The Common Seal of Austereo Limited (ACN 007 914 641) affixed with the authority of the Board of Directors previously given in the presence of:-



[Signature]
Director

[Signature]
Secretary

ACCEPTED BY THE AUSTRALIAN COMPETITION AND CONSUMER
COMMISSION



Chairperson

Dated 30 June 1997