

TRADE PRACTICES ACT 1974**UNDERTAKINGS TO THE AUSTRALIAN COMPETITION & CONSUMER COMMISSION ('ACCC') FOR THE PURPOSE OF SECTION 87B****BY****GARDEN CITY CABS CO-OPERATIVE LIMITED ('Garden City Cabs')**
a trading society incorporated under the Co-operatives and Other Societies Act 1967**BACKGROUND**

Garden City Cabs was incorporated as a trading society under the *Co-operatives and Other Societies Act 1967-1978* in the State of Queensland.

The principal activity of Garden City Cabs was and remains the supply of communication, despatch and support services to taxi cabs in the Toowoomba area.

From January 1993 until December 1996, Garden City Cabs operated under a rule which had the effect of preventing its members who were owners of taxi cabs from engaging commission drivers for periods of time less than five consecutive days. This rule was known as Operational Rule 54.

The ACCC commenced court proceedings against Garden City Cabs in the Federal Court of Australia alleging that Garden City Cabs had breached the *Trade Practices Act 1974*. Garden City Cabs defended those proceedings, denying it had breached the Act.

In December 1996, Garden City Cabs voluntarily rescinded Operational Rule 54.

Garden City Cabs has no present intention to implement a rule with an effect like Operational Rule 54.

The ACCC and Garden City Cabs have agreed on terms to resolve the Court proceedings including the making of certain Court Orders by consent and the giving of these undertakings.

UNDERTAKINGS

Garden City Cabs undertakes for the purposes of section 87B of the *Trade Practices Act 1974* (the 'Act') that:-

Compliance Program

1. Prior to 31 March 1998 it will implement at its expense, and continue to maintain, a Trade Practices Compliance Program (the '**Program**') for its taxi business.
2. The Program will include:
 - (a) the appointment of a compliance officer;
 - (b) the preparation of an information manual to be distributed to all directors and members; and
 - (c) the education of directors and members through presentations of in-house seminars, conducted at least annually.

3. The Program will be compulsory for all directors of Garden City Cabs.
4. The Program will have firm goals for management and staff which goals are stated in clear terms. The Program will be designed to ensure that directors and members attain a sufficient understanding of the Act so that: directors, members and staff can avoid obvious contraventions of the Act and can refer potential Trade Practices problems to the compliance officer; and the compliance officer can address more complex Trade Practices issues and identify those issues which require referral to the legal advisers of Garden City Cabs.
5. Responsibility for ensuring compliance with the Act will be placed on the Chairperson of the Board of Garden City Cabs.
6. There will be a formal system of reporting, by personnel to the Chairperson identified in paragraph 5 above designated to be responsible for corporate compliance of all matters which may involve contraventions of the Act.
7. There will be a formal system which is put into effect whenever conduct is reported to the Chairperson which may involve a contravention of the Act. The procedure will include examination of the conduct by a suitably qualified person to determine whether the possible contravention has substance, action to rectify the contravention at an early date, and progressive monitoring of the matter to ensure the rectification action is successfully implemented.
8. There will be a system of disciplining those who do not comply with the Program and who engage in conduct in contravention of the Act by issuing warning letters. If a warning letter is issued to a director, it will be tabled at the next board meeting. If a second warning letter is issued to a member, the member's right to use the communication and despatch services operated by Garden City Cabs will be suspended for a period of up to 7 days.

General Meeting

9. Within 60 days of the date of this undertaking Garden City Cabs will convene a General Meeting of the members of Garden City Cabs to consider incorporating into the operating rules of the Respondent a rule in accordance with the following:

Garden City Cabs (by itself, its directors, its servants or agents or otherwise howsoever) may not fail or refuse to supply communication or despatch services to:

- (a) any member of Garden City Cabs ('member') for the reason that the member has engaged or proposes to engage a commission driver for a particular number of consecutive days; or
- (b) any commission driver engaged by Garden City Cabs ('driver') for the reason that the driver has been engaged by a member as a driver for a particular number of consecutive days;

subject to any law of the State of Queensland.

ACKNOWLEDGEMENTS

10. Garden City Cabs acknowledges that the ACCC will make this Undertaking available for public inspection.

11. Garden City Cabs further acknowledges that the ACCC may from time to time publish and/or publicly refer to this Undertaking at its discretion.

IN WITNESS OF THESE UNDERTAKINGS

THE COMMON SEAL of GARDEN CITY CABS CO-OPERATIVE LIMITED

is affixed in the presence of



.....
John Tighe, Chairperson
Garden City Cabs Co-Operative Limited

.....
Secretary

Dated this 16th day of September 1997.

**ACCEPTED by PROFESSOR ALLAN)
FELS of AUSTRALIAN COMPETITION)
& CONSUMER COMMISSION pursuant)
to section 87B of the Trade Practices Act)
1974**

.....
Professor Allan Fels
Chairperson
Australian Competition & Consumer
Commission

Dated this 22 day of September 1997.

16/9/97
JWS.