



TRADE PRACTICES ACT 1974

UNDERTAKING TO THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION GIVEN FOR THE PURPOSE OF SECTION 87B

BY

POCKET MONEY LIMITED (ACN 087 447 916)

BACKGROUND

1. Pocket Money Limited ("PML") is incorporated in the State of New South Wales. PML's principal trading activity is the promotion and sale of phonecards.
2. PML has been advertising international call rates for its phonecard service in the May – September edition of the "Sydney The Official Guide" publication and on its internet site (www.pocketmoney.com.au).
3. In both the print and internet advertising the international call rates are listed as a charge per minute. At the bottom of these lists and in smaller font is printed "10 c per minute surcharge applies" and "Connection fee – 55c". There is no marker or reference near the listed international call rates that brings the reader's attention to the applicable surcharge and connection fee.
4. The print advertisements that appeared in "Sydney The Official Guide" also contained a representation offering \$5.00 worth of free calls. This offer was conditional on a minimum amount of calls being purchased by the consumer, however there was no disclosure of a conditional minimum amount in the body of the advertisement.
5. On the 16 May 2000, the Commission advised PML that the overall impression created by both the print and internet advertisements had the potential to mislead or deceive consumers and failed to state the full cash price of the call rates contrary to sections 52, 53(e) and 53C of the Trade Practices Act 1974 ("the Act"). Specifically the Commission was concerned the surcharge and connection fee, that altered significantly the cost of the service, was not clearly disclosed. The Commission was also concerned that there was no disclosure in the body of the print advertisement that consumers were required to purchase \$20.00 or more worth of calls in order to receive the \$5.00 worth of free calls being offered.
6. PML reacted promptly to the Commission's concerns and has agreed to provide undertakings as stated below.

COMMENCEMENT OF UNDERTAKING

7. This undertaking comes into effect when:

- (i) the undertaking is executed by PML; and
- (ii) the Commission accepts the undertaking so executed.

UNDERTAKINGS

PML undertakes to the Commission that:

- A. PML will inform immediately, all consumers responding to the print advertisement in the May – September edition of “Sydney The Official Guide” that a 10 cents per minute surcharge and 55 cents connection fee applies to the call rates listed in the advertisement.
- B. PML will in future promotions and/or advertisements ensure that the fine print will not include important terms or conditions that significantly alter the value and/or character of the promoted product or service.
- C. PML will honour the offer of \$5.00 worth of free calls to consumers responding to the print advertisement in the May – September edition of “Sydney The Official Guide”, and waive any requirement that a minimum value of calls be purchased to qualify for the offer.
- D. PML will ensure that its representatives and/or agents are aware of, and comply with, the undertakings provided to the Australian Competition and Consumer Commission.
- E. In advertising its call rates, PML will advertise the full cost per minute and will not advertise only part of the cost per minute while describing the additional cost as a per minute surcharge.
- F. PML will ensure in future advertisements and/or promotions that all the terms and conditions applicable to the products are clearly indicated and accessible to consumers.
- G. PML will alter the format of its internet website as soon as is practically possible to ensure compliance with undertakings B, D and E.
- H. PML will develop a Trade Practices compliance program drafted in accordance with AS3806-1998 for the purpose of educating its staff as to the provisions of the Act. A draft of the program, including the time frames for implementation, shall be provided to the Commission for approval within 90 days of the acceptance of these undertakings.

ACKNOWLEDGMENTS

1. PML acknowledges the Commission's right to make this undertaking available for public inspection and notes that the Commission may, at its absolute discretion, from time to time publish and publicly refer to this undertaking.
2. PML acknowledges and accepts that this undertaking in no way derogates from the rights and remedies available to any other person arising from PML's conduct.

Signed on behalf of POCKET MONEY LIMITED by

PETER KELLY
Print Name (Director/Secretary)

P Kelly
Signature

7 SEP 00
Date

MEREDITH WILLIAMS
Print Name (Director/Secretary)

Meredith Williams
Signature

7 SEP 2000
Date

Company Seal

**ACCEPTED BY THE AUSTRALIAN COMPETITION AND CONSUMER
COMMISSION PURSUANT TO SECTION 87B OF THE TRADED
PRACTICES ACT 1974.**

Allan Fels

Allan Fels
(Professor Allan Fels)

Chairperson

a/g