

## TRADE PRACTICES ACT 1974 - SECTION 87B

### UNDERTAKING

#### Person giving Undertaking

This undertaking is given to the Australian Competition and Consumer Commission ("the Commission") by Queensland Motorways Limited ("QML") under section 87B of the *Trade Practices Act 1974* ("the Act").

#### Background

QML is responsible for the operation of the tolls on the Logan Motorway, with toll plazas at the Southern Brisbane Bypass, Loganlea Road and Stapylton Road ("the Logan Motorway Tolls"), through its wholly-owned subsidiary Logan Motorway Company Limited ("LMCL"), pursuant to a road franchise agreement with the State of Queensland. QML is also responsible, through another wholly-owned subsidiary, for the operation of tolls on the Gateway Bridge ("the Gateway Tolls").

On 20 June 2000, pursuant to the *Transport Infrastructure (State Controlled Roads) Regulation 1994* (Qld), an increase in price for the Logan Motorway Tolls from 1 July 2000 was gazetted. The price increase included a GST component and an increase due to other commercial factors.

Between at least 4 June 2000 and 4 July 2000 QML represented to its customers and to members of the public in relation to the price increases for the Logan Motorway Tolls, including by way of newspaper advertisements, flyers, and leaflets distributed to account customers ("the original representations"), that:

"The modifications to the price will reflect the introduction of the Commonwealth Government's 10% Goods and Services Tax (GST) and minor rounding of coinage."

While a significant proportion of the price increases for the Logan Motorway Tolls was attributable to the introduction of the GST, the prices were all rounded upward to the next 10 cents. The overall proposed increases in toll prices for particular vehicles ranged from 11.4% to 20%. The parties agree that the impact of the GST, taking into

account savings attributable to the New Tax System changes, is approximately 9.94%. The increased revenue from the price increases on average exceeds the impact of the GST by approximately 3%.

The Commission has expressed its concerns to QML that the above representations as to the reasons for the increase in toll prices and as to rounding may have misled or been likely to mislead customers about the effect or likely effect of the New Tax System changes on the toll prices, contrary to section 75AYA of the Act, and section 52 of the Act. The Commission further considers the representations may have constituted misleading representations with respect to the price of services, contrary to section 53(e) of the Act.

QML acknowledges the Commission's concerns, and has offered these undertakings to address those concerns, to ensure its customers are not confused or misled as to the effect of the New Tax System changes on the prices of the Logan Motorway Tolls, and to demonstrate its good faith to any customers who may have been misled or confused by the representations.

In addition, QML has undertaken not to seek from the State of Queensland any further increase in toll prices for the Logan Motorway Tolls for a period of 12 months. The Commission and QML understand that the State of Queensland is aware of and agrees to QML giving that undertaking.

The Commission acknowledges the prompt and full cooperation of QML in addressing these matters, and has agreed to accept the undertaking from QML under section 87B of the Act.

### **Commencement of Undertaking**

1. This undertaking comes into effect when:
  - (a) the undertaking is executed by QML; and
  - (b) the undertaking so executed is accepted by the Commission.

### **Corrective advertising and apology**

2. QML undertakes to publish and distribute corrective material in the form of annexure A hereto by the following methods:

- (a) corrective flyers to be distributed to customers using the Logan Motorway toll booths from at the latest 3 days after the date of these undertakings until 5 weeks after the date of these undertakings;
  - (b) corrective leaflets to be mailed to all account customers of QML and LMCL with the distribution of August accounts in the first week of August 2000;
  - (c) advertisements in the form of annexure A hereto to be published in the Courier Mail and local Quest newspapers.
3. The distribution and publication of the above corrective material shall be, at a minimum, in an equivalent manner and frequency to, of no less prominence than, and of similar size to, the material containing the original representations. The distribution and publication will commence as soon as practicable after the acceptance of this undertaking. In the case of the newspaper advertisements, QML shall submit to the Commission within 7 days of the date of this undertaking, a schedule of the dates of publication of the advertisements. The schedule shall accord with the objects of this paragraph.

#### **Compensation to customers and the public**

4. QML undertakes that:
- (a) on Wednesday 16 August 2000, commencing 12 midnight and ceasing 11.59pm on that day, no toll will be imposed upon any customer for use of the Logan Motorway Tolls; and
  - (b) neither QML nor its subsidiaries will seek to put any increase in the prices of the Logan Motorway Tolls or the Gateway Tolls into effect during the period of 12 months commencing on 1 July 2000 and it gives this undertaking with the knowledge of the State of Queensland.

#### **Compliance program**

5. QML undertakes that:
- (a) QML will conduct trade practices compliance training for its staff and those of LMCL, with particular regard to Part VB of the Act (“the Training”),

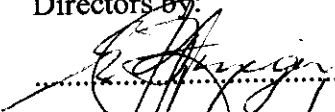
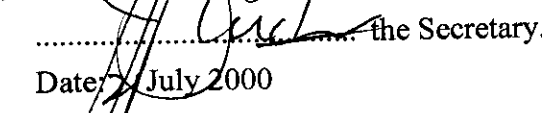
within 90 days of the date of this undertaking, or within 14 days of the Commission's advice pursuant to paragraph 5(d), whichever is the later.

- (b) The Training will aim to create a culture of compliance within QML / LMCL and to prevent, so far as is reasonably possible, any contraventions of Part VB of the Act by QML or LMCL or their officers, employees or agents.
- (c) The Training will cover those officers, employees and agents of QML and LMCL whose duties could result in their being concerned in conduct that might breach Part VB of the Act.
- (d) QML will submit an outline of the Training to the Commission within 45 days of the date of this undertaking and will implement as part of the Training any reasonable changes to the outline that may be recommended by the Commission in writing.

### Acknowledgments

- 6. QML acknowledges and accepts that:
  - (a) the Commission may make these undertakings available for public inspection including by placing it on a register, publishing it and allowing third parties to publish it, and that the Commission may from time to time publicly refer to these undertakings, including by way of media release;
  - (b) this undertaking in no way derogates from the rights and remedies which may be available to any other person arising from the alleged conduct.

THE COMMON SEAL OF QUEENSLAND MOTORWAYS LIMITED was hereto affixed by authority of a Resolution of the Board of Directors by:

 ..... a Director and  
 ..... the Secretary.  
Date: 7 July 2000



**ACCEPTED BY THE AUSTRALIAN COMPETITION AND CONSUMER  
COMMISSION**

  
Chairman

Dated: 29 July 2000

"A"

**CORRECTIVE ADVERTISEMENT**

## **TOLL-ROADS PRICE RISE**



### **A P O L O G Y**

Last month, Queensland Motorways Limited (QML) advertised increased toll prices for the Logan Motorway and the Southern Brisbane Bypass, payable at the Loganlea, Stapylton and Kuraby toll plazas.

The notice stated that the increases in prices were due to the GST and minor rounding of coinage. The rounding of prices upward was to the next 10 cents and not to the nearest 5 cents.

The increase due to the GST was only about 9.94%, while the toll price increases were about 13% on average. The additional increase was to partially recover our increased costs in operating and maintaining the tollways since the last increase.

The ACCC and some of our customers have complained that the advertisements were misleading as to the effect of the GST on our prices. QML apologises to its customers for not making the correct position clear, and for any confusion or concern we may have caused.

## **Toll-free Day Logan Motorway**

As a sign of good faith, Queensland Motorways wishes to announce a Toll-free Day for everyone travelling through the toll plazas on the Southern Brisbane Bypass, Loganlea Road and Stapylton Road, for the 24 hours between midnight on Tuesday 15th to midnight Wednesday 16th August 2000.



**Australian Competition & Consumer Commission**

This advertisement has been placed and paid for by Queensland Motorways Limited after discussions with the Australian Competition and Consumer Commission (ACCC).

COM/CO 7511