

TRADE PRACTICES ACT 1974

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

BY

THE DCH LEGAL GROUP PARTNERSHIP

BACKGROUND

1. DCH Legal Group ('DCH') caused to be published on page 19 of the Subiaco Post newspaper dated 22 April 2000 an article entitled '**GST will make it more expensive to divorce**' ('the Article').
2. A partner of DCH, Ms Elizabeth Hynes, is quoted in the Article as stating:

"Unlike businesses, divorcing couples will not be able to write off their legal fees as a tax deduction, and this will add 10 per cent to their legal fees."
3. In the context of the representation referred to in paragraph 2 above, an example used in the Article states that a divorce which would usually cost \$20,000 would cost \$22,000 after 1 July 2000 as a result of the GST.
4. Within the same Article, another DCH partner, Ms Catherine Leach, is quoted as stating:

"indications are those savings would result in a 1% or less reduction in the cost of legal services to be passed on to clients".
5. DCH also caused the following representation to appear in the Article:

"If couples wanted to avoid paying GST, they should contact lawyers straight away for advice because the GST would apply to all legal services provided after July 1."
6. On 29 May 2000 the Australian Competition and Consumer Commission ('the Commission') wrote to DCH, expressing concerns that the Article may have breached sections 52 and 53(e) of the *Trade Practices Act 1974* ('the Act') in relation to the New Tax System.
7. On 30 June 2000 DCH wrote to the Commission offering to resolve the matter by agreeing to undertakings under section 87B of the Act ('this Agreement'). Execution of this Agreement shall constitute acceptance of its terms by those invested with authority to sign on behalf of DCH.

8. DCH acknowledges their editorial control over the Article and that the representations referred to in paragraphs 2, 3, and 5 above may mislead or deceive consumers in breach of sections 52 and/or 53(e) of the Act.

UNDERTAKINGS

9. DCH gives the following undertakings to the Commission for the purpose of section 87B of the Act. DCH undertakes that it will:
 - (a) cease forthwith to engage, and at no time in the future engage, in misleading or deceptive conduct, or make false or misleading representations regarding the impact of the New Tax System on the provision of legal services;
 - (b) offer refunds, or where appropriate, some other compensation approved by the Commission, to persons induced by the Article into using legal services provided by DCH;
 - (c) Cause a corrective advertisement in the form annexed at Attachment A (and of the approximate size 10 cm wide by 15cm long), to be published in the issue of the Subiaco Post local newspaper dated 15 July 2000;
 - (d) Within three months of the acceptance of this Agreement by the Commission, implement a trade practices compliance program ('Program'), with specific emphasis in relation to sections 52 and 53(e) of the Act. The Program shall be consistent with Australian Standard 3806 Compliance Programs and have DCH's external solicitors or accountants, and which are acceptable to the Commission, report to the Commission on the Program's implementation and its effectiveness for a period of two years, the first such report to be provided on a date no later than fifteen months following acceptance of the undertaking by the Commission and the final report by no later than twenty seven months following acceptance of the undertaking by the Commission.

ACKNOWLEDGMENTS

10. DCH acknowledges the Commission's right to make this Agreement available to the public including by placing it on a register, publishing it and allowing third parties to publish it.
11. DCH acknowledges that the Commission may issue a media release about this Agreement and may, from time to time, publicly refer to the Agreement. In drafting the media release, the Commission will seek input from DCH for possible inclusion and will refer to the cooperation provided by DCH in resolving this matter.
12. DCH acknowledges and accepts that this Agreement in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

IN WITNESS OF THIS UNDERTAKING

This 5th day of July 2000

Signed for and on behalf of DCH Legal Group by:



Stephen Crooks (signature)

STEPHEN DEXTER CROOKS

Print full name

WHO IN SO SIGNING CERTIFIES AUTHORITY TO BIND THE DCH LEGAL GROUP PARTNERSHIP

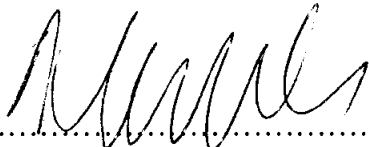


Witness (signature)

THEA WOODRUFF

Print Full Name

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



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Chairperson, Professor Allan Fels

This 10 day of July 2000

Attachment A

An Apology from DCH Legal Group

(Partnership Logo)

An article by DCH Legal Group on page 19 of the Subiaco Post dated 22 April 2000 entitled '**GST will make it more expensive to divorce**' contained the following representations:

1. 'Unlike businesses, divorcing couples will not be able to write off their legal fees as a tax deduction, and this will add 10 per cent to their legal fees.'
2. An example of a divorce increasing in cost from \$20,000 to \$22,000 as a result of the GST was used.
3. If couples want to avoid paying GST, they should contact lawyers straight away for advice because the GST would apply to all legal services provided after July 1.

These claims were incorrect

The Australian Competition and Consumer Commission had concerns with representations 1 and 2 because they fail to recognise cost reductions in the provision of legal services arising under the New Tax System.

The Commission's concern with representation 3 was that readers may have been misled as to potential pre-GST savings because any divorce proceedings commenced as a result of the article were unlikely to be finalised by the introduction of the GST on 1 July 2000.

DCH Legal Group acknowledge that the article may have misled readers and offers compensation to persons induced by the article into obtaining legal services from the firm.

This corrective notice forms part of the undertakings by DCH Legal Group to the Commission.