

**UNDERTAKING TO THE AUSTRALIAN COMPETITION AND  
CONSUMER COMMISSION GIVEN UNDER SECTION 87B OF  
THE TRADE PRACTICES ACT 1974**

**BY**

**GOCONNECT LIMITED (ACN 089 240 353)**

**AND**

**GOCONNECT AUSTRALIA PTY LTD (ACN 090 146 213)**

**PERSONS GIVING UNDERTAKING**

- (1) This undertaking is given to the Australian Competition and Consumer Commission ('the Commission') by each of GoConnect Limited (ACN 089 240 353) and GoConnect Australia Pty Ltd (ACN 090 146 213) both of Level 3, 43-51 Queen Street, Melbourne in Victoria (herein collectively referred to as 'GoConnect') under section 87B of the *Trade Practices Act 1974* ('the Act').

**BACKGROUND**

- (2) GoConnect is an Internet Service Provider ('ISP') that purports to offer free Internet access to members of the public. GoConnect began calling for registrations in January 2000 via a high profile advertising campaign that included print, television, website and billboard advertisements. As at April 2000, GoConnect had received approximately 300,000 registrations from members of the public wishing to take advantage of the GoConnect ISP service.
- (3) Representations contained in GoConnects advertising for its ISP services has included the following statements:
- *Free Internet Access....it really exists!*
  - *Endless free Internet time.... It really exists!*
  - *Go on... connect!*
  - *We will be launching our full access service to our members from March 2000. To make sure you receive priority access to our service from the launch day, just register your details on the registration page now.*
- (4) During the period 10 March 2000 to 2 May 2000, Commission staff made inquiries in relation to the availability of GoConnect's ISP service and was advised by GoConnect that:

- As at 1 April 2000 only approximately 6000 people had been offered connections to the Internet via GoConnect.
  - GoConnect was unable to predict with any certainty the availability of its service to subscribers beyond the 60,000 offers of connection it expected to make by 1 June 2000.
  - At present, subscribers may only be connected in Melbourne, Sydney and Brisbane. The ability for GoConnect to extend the service to other areas beyond May is uncertain, as they are reliant upon third parties to provide the necessary network capacity.
  - The delivery of video advertisements to subscribers, which is to provide GoConnect's only significant revenue source, is still in trial phase.
- (5) In correspondence between Commission staff and GoConnect in April 2000, concerns were expressed that information contained in GoConnect's advertising and on GoConnect's website ([www.goconnect.com.au](http://www.goconnect.com.au)) may be misleading and deceptive contrary to section 52 of the Act. This is because the advertising and website fail to sufficiently advise subscribers of the considerable delay subscribers may face between registering and actually being connected to the Internet via GoConnect.

## **COMMENCEMENT OF UNDERTAKINGS**

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

## **UNDERTAKINGS**

- (7) GoConnect will not make unqualified representations to consumers that imply that consumers will be connected to Internet services through GoConnect within a reasonable time following registration.
- (8) GoConnect will, at its own expense, no later than 21 May 2000 alter its advertisements and place corrective advertisements in the form set out in Annexure A, to draw to the attention of potential subscribers the fact that there may be delays of several months between registration and actual connection to the Internet via GoConnect and provide to the Commission copies of the advertisements so placed.
- (9) GoConnect will alter its website, no later than 14 May 2000, to clearly state its reasonable expectations of service delivery.

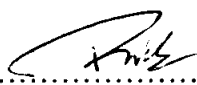
- (10) GoConnect will, at its own expense, by 5.00pm on 21 May 2000, send a corrective e-mail or letter in the terms of **Annexure B** to all consumers who have registered with GoConnect.
- (11) GoConnect will, at its own expense, implement a Trade Practices Compliance Program, in a form to be approved by the Commission, that will include procedures and mechanisms to minimise the likelihood of further contraventions of the Act and section 52 in particular.
- (12) The compliance program shall include a review of all information published or provided by GoConnect in respect of the availability of Internet services through GoConnect.
- (13) The object of implementing the compliance program is to create and maintain compliance consistent with Australian Standard AS-3806. In the program, GoConnect will use its best endeavours to:
  - (a) demonstrate commitment to a policy of compliance and embed a culture of compliance throughout the organisation;
  - (b) analyse and correct the trade practices concerns identified by this undertaking;
  - (c) identify risk areas for trade practices breaches and develop management procedures to eliminate or minimise these risks;
  - (d) communicate to all staff that GoConnect will take internal disciplinary action against those responsible for breaches and may not indemnify them against legal proceedings arising from such conduct; and
  - (e) provide practical and verifiable training for all relevant staff and management so that breaches and potential breaches may be prevented or otherwise detected, referred and acted upon.


## **ACKNOWLEDGMENTS**

- (14) GoConnect acknowledges that it may have breached Part V of the Act.
- (15) GoConnect acknowledges the Commission's right to make this undertaking available for public inspection and notes that the Commission will, at its discretion, from time to time, publish and publicly refer to this undertaking.
- (16) GoConnect acknowledges and accepts that this undertaking in no way derogates from the rights and remedies available to any person arising from GoConnect's conduct.


IN WITNESS WHEREOF this Agreement was executed on the day and year first before written.


Executed for and on behalf of **GOCONNECT AUSTRALIA PTY LTD (ACN 090 146 213)** by its duly authorised signatories:

  
.....  
Name: RICHARD LI  
Position: DIRECTOR

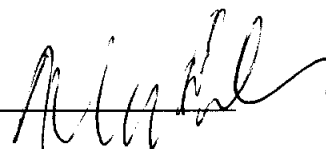
  
.....  
Name: EDWARD LI  
Position: COMPANY SECRETARY

Executed for and on behalf of **GOCONNECT LIMITED (ACN 089 240 353)** by its duly authorised signatories:

  
.....  
Name: RICHARD LI  
Position: DIRECTOR

  
.....  
Name: EDWARD LI  
Position: COMPANY SECRETARY

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

Chairman:   
This / 5 day of May 2000.

**Annexure A  
(11/5/00)**

**Correction Ad**

**Sub Head:** **An Apology from GoConnect**

**Headline:** **Overwhelming response causes connection delays**

**Body Copy:**

We are rolling out our free Internet access in Brisbane, Sydney and Melbourne more slowly than expected. At this stage we are only able to offer connections to registered members living in metropolitan Brisbane, Sydney or Melbourne. We expect delays of several months before offers for connection can be made to consumers who register for the GoConnect service. Check our website for updates on provision of connections.

Obtaining the necessary infrastructure capacity has proven to be a bigger task than first thought, though be rest assured, we are working around the clock to get you connected as soon as possible for unlimited, unrestricted, free\* Internet access.

Not yet registered? If you register today, you may not be connected for several months however the sooner you register the sooner you will be connected. Register at [www.goconnect.com.au](http://www.goconnect.com.au) or call 1300-368-368

- Subject to telephone call charge. Technical Help Desk charge is levied @ \$1.95 per minute.



**Annexure B**  
**(11/5/00)**

**Member Newsletter**

**Headline:                    Update of status for provision of connections to members**

Our advertising programme for free ISP services has resulted in an overwhelming response from the public. Since we commenced accepting registrations in December 1999 more than 300,000 people have registered seeking free Internet access through GoConnect.

12,000 registered members were offered connections in March and April. By the end of May we expect to offer connections to an additional 60,000 members in metropolitan Brisbane, Sydney and Melbourne who requested the download option when registering. At present we are unable to say when we will be able to offer connections to members who live outside of these areas.

The Australian Competition and Consumer Commission has advised us that some of the advertising regarding our free Internet access service may be misleading. For instance, we did not make absolutely clear that when you register you would not be able to access the Internet immediately and that there would be significant delays between registration and connection to the Internet via GoConnect.

When we first launched our advertising programme we were of the belief that we would be able to provide connections to a substantial number of registered members commencing March 2000. However, at this stage our network infrastructure provider has not been able to secure the necessary telecommunications capacity to provide the modem ports to enable us to offer connections to all members. Until we receive confirmation of the available telecommunication network capacity, we are unable to provide further details as to when the rest of our registered members will be offered connections.

There is likely to be a delay of several months before all members currently registered will be offered connections. Please be patient with us. We assure you that we are doing everything we can to expedite the provision of connections to all our members as quickly as possible.

We apologise to anyone who might have been misled in relation to when our free Internet access was available. We will keep you informed by email regarding the progress for provision of connections. Please refer to our website for further updates on our rollout schedule. If you require any further information you may contact us on 1300 368 368 or check our website.

Two handwritten signatures are located at the bottom right of the page. The first signature is a stylized, cursive 'S' shape. The second signature is a more complex, cursive signature that appears to be 'M.C.' or similar.