



TRADE PRACTICES ACT 1974

UNDERTAKING TO THE AUSTRALIAN COMEPTITION & CONSUMER COMMISSION GIVEN PURSUANT TO SECTION 87B OF THE TRADE PRACTICES ACT 1974 BY

TAXIS OF PORTLAND PTY LTD

BACKGROUND

1. Taxis of Portland is a small proprietary limited company with twelve shareholders, that operates eight affiliated taxi-cabs in the south west Victorian town of Portland.
2. The company provides radio network services to its taxi-cab owners and operators.
3. The company had in place a number of rules, referred to as the "Rules of Taxis of Portland", which sought to set certain standards for the operation of taxi-cabs in the town.
4. Until the ACCC wrote to the company, its rules contained provisions that raised concerns under the Trade Practices Act 1974.
5. One of these provisions required drivers to comply with a roster that effectively limited the amount of time drivers were permitted to work.
6. A further provision, setting up a roster for the distribution of out of town work, required drivers receiving such work to surrender that work to the network for reallocation among drivers in accordance with the roster.
7. On 13 June 2001 the Commission wrote to the company expressing its concern that such rules might constitute a breach of section 45 and 46 of the Trade Practices Act 1974.
8. In the same letter the Commission also expressed concern that the company's rules may also contain a provision which prohibited drivers from using their mobile phones to accept bookings.
9. While Taxis of Portland acknowledged that its rules did contain the provisions relating to the operation of the two rosters, it advised that the provision relating to the prohibition of drivers using their mobile phones to accept bookings had been removed approximately 2 years ago.

FILE No.	
ENTITY	
MAN	D01/45235

10. In order to address the Commission's concern the company has agreed to give the Commission an Undertaking pursuant to section 87B of the Act, which is set out below.

DRAFT UNDERTAKING

Taxis of Portland undertakes that it will hereafter, whether by itself, its directors, employees or agents:

1. Refrain from operating a roster system that specifies periods in which taxi operators are not permitted to seek work.
2. Refrain from operating a roster system which allocates out of town work acquired directly by individual drivers (ie not via the network) on a 'next in line' basis.
3. Ensure that owners, drivers or lessees are made aware that their use of mobile phones to take bookings in their taxi cabs is not prohibited under the company's rules.
4. Ensure any changes to its rules are submitted to a qualified legal practitioner prior to adoption for vetting in respect of compliance with the Trade Practices Act 1974.
5. Ensure that directors operate strictly within the requirements of the Trade Practices Act 1974.
6. Within thirty (30) days of the date of this undertaking the company send a letter to all its owners, lessees and drivers, in terms acceptable to this office, enclosing a copy of the executed undertakings, and briefly explaining their import.

COMPLIANCE PROGRAM

Taxis of Portland shall develop and implement, at its own expense, a trade practices compliance program. The company will:

7. Ensure that its compliance program is prepared in accordance with Australian Standard AS 3806 – 1998;
8. Ensure each director attends a seminar within three months of the signing of the undertaking, run by a suitably qualified compliance professional, on the Trade Practices Act 1974 and its application in the taxi industry;
9. Arrange for all taxi owners, drivers and lessees to attend such a seminar within three months of the signing of the undertaking;
10. Ensure that such seminars are run on an annual basis for a period of three years;
11. Appoint one of the six directors as a Compliance Manager with overall responsibility for compliance;

12. Ensure that all compliance breaches are reported to the Compliance Manager immediately, with appropriate training and steps to prevent repetition;
13. Keep an accurate record of compliance failures and complaints and of the rectification of such failures and complaints;
14. Permit the VTA to use details of 'the Portland case' in trade practices training materials it uses for taxi operators;
15. Provide the Commission with a copy of the company's rules for approval within four months of the signing of the undertaking.

AUDIT COMPONENT

16. The company shall cause, at its own expense, an independent audit of its compliance program to be conducted annually from thirty (30) days after the date of acceptance of the undertaking for a period of three (3) years. The audit shall be carried out by a suitably qualified compliance professional;
17. The auditor shall review and report on:
 - A. the company's adherence to the undertaking
 - B. the implementation of the compliance program and the achievement of its objectives over the preceding twelve (12) months;
 - C. any recommended changes to the compliance program that may be necessary to ensure achievement of its objectives.
18. The Commission shall review the recommendations contained in each audit report. Subject to Commission approval the company shall implement those recommendations within one (1) month of the Commission's written notification of its approval.

ACKNOWLEDGEMENTS

Taxis of Portland acknowledges the Commission's right to make this undertaking available to the public, including by placing it on the register, publishing it, allowing third parties to publish it.

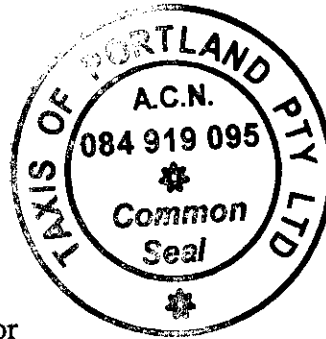
Taxis of Portland further acknowledges that the Commission may issue a media release about this undertaking and may from time to time, publicly refer to the undertaking.

The company further acknowledges that this undertaking in no way derogates from the rights and remedies available to any person arising from the alleged conduct.

The company further acknowledges that the report referred to in paragraph 18 will be held with this undertaking on the Commission's public register.

Dated : 8/10/01. 2001

The Common Seal of Taxis
of Portland Pty Ltd
ACN 084 919 095
was affixed in accordance with
the Corporations Law in the
presence of:



[Handwritten Signature]
..... Director

[Handwritten Signature]
..... Director/Company Secretary

OR

..... Sole Director and Sole Company Secretary

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

[Handwritten Signature]

.....
Professor Allan Fels **R.F. SHOGBREN**
Chairman

[Handwritten Initials]

Dated 15 Oct 2001