

D02/64684



RAC000AR1T

TRADE PRACTICES ACT 1974

UNDERTAKING TO

THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION

GIVEN FOR THE PURPOSES OF SECTION 87B

BY

QUEENSLAND NEWSPAPERS PTY LTD

ACN 009 661 778

BACKGROUND

1. Queensland Newspapers Pty Ltd ACN 009 661 778 ('Qld News') publishes and sells newspapers, including "The Courier Mail", throughout Queensland and other parts of Australia.
2. The Australian Competition and Consumer Commission ('the Commission') has received complaints from businesses wishing to place advertisements in Qld News publications, primarily "The Courier Mail". The complainants allege variously that Qld News has refused to place the classified advertisements in Qld News newspapers where the classified advertisements proposed contained references to internet addresses or internet classified sites. Complainants have also alleged that Qld News refused to place advertisements for internet classified businesses at all.
3. The Commission is concerned that Qld News has substantial power in the Queensland markets for newspaper advertising and/or newspaper classified advertising, and having refused supply, may have contravened s.46 of the *Trade Practices Act 1974* ('the Act'). Qld News offers these undertakings to address the Commission's concerns.

UNDERTAKINGS

Qld News hereby gives the following undertakings for the purposes of section 87B of the Act, for two years from the date hereof:

4. Qld News will establish a separate classified advertisement category entitled "*Internet Classified Services*" for both the general part of its newspapers and certain liftouts. By general part of the newspapers, Qld News is referring to that part which contains, among other things, the general news, business pages and general classifieds, but which does not include liftouts that are classified environments, such as those dealing with real estate, motoring, careers, travel and special or feature liftouts published from time to time. By way of clarification, certain liftouts in the weekend edition of The Courier Mail such as, "Business", "Sport" and "Lifestyle" fall within the general part of the newspaper.
5. As to the general part of the newspaper:
 - (a) the 'Internet Classified Services' category will be included in the general index to the classified advertisements and Qld News will permit internet classified businesses to place classified advertisements for their services within that section. Classified advertisements within the 'Internet Classified Services' category will be published next to classified advertisements in the "Internet Services" category or as near thereto as may be practicable provided that each of these categories will only appear on days when there are advertisements to publish under them;
 - (b) any person wishing to advertise a specific good, service or opportunity

other than in the 'Internet Classified Services' category, will be permitted to do so provided that, if more than 25% of the proposed advertisement consists of the advertiser's web site or email address, Qld News may elect to publish it in the general news or business pages sections of the newspaper on the terms relating to advertising on those pages.

- (c) any person wishing to place advertising for a general site, classified site or client site, may place such an advertisement in the general news or business pages, or the 'Internet Classified Services' category of the general classified advertising section of the newspaper. Any such advertisement may include such contact details, including internet addresses, as the advertiser requires, but must include the advertiser's telephone contact number if Qld News so requires.
6. In relation to liftouts, Qld News will establish a separate category entitled "Internet Classified Services" in which it will publish advertisements by internet classified businesses in a position determined by Qld News, subject to (a) and (b) below:
- (a) When practicable Qld News will endeavour to place the 'Internet Classified Services' category as follows:
 - i. in the "Real Estate" liftout - towards the end of the lineage advertisements opposite the inside back cover under the heading "Real Estate Internet Classified Services".
 - ii. in the "Careers" liftout - in the General Vacancies segment under the heading "Careers Internet Classified Services", provided that doing so in any particular case complies with the ACCC's publication entitled "Misleading job and business opportunity ads" dated January 1999.
 - iii. in the "Motoring" liftout - towards the end of the lineage advertisements under the heading "Motoring Internet Classified Services".
 - (b) Insofar as Qld News publishes other liftouts that are classified environments, being a liftout recorded in the classifieds index of the newspaper, it will publish advertisements for internet classified businesses in those liftouts, towards the end of the lineage advertisements.

In relation to advertising referred to in this clause 6, Queensland News will permit lineage and display advertising which may, technical requirements permitting, include images and colour.

7. Nothing in this undertaking requires Qld News to:
- i. publish any advertisement that denigrates Qld News or its print products

or that makes unfavourable comparison or reference to those products; or

- ii. publish advertising relating to any of its print competitors including web sites owned or operated by its print competitors where the site has a name that is associated with that competitor; or
- iii. publish advertising that contravenes or does not comply with any advertising policy or guideline of Qld News other than one which relates to advertising of internet addresses or internet classified services.

DEFINITIONS

8. In these undertakings the terms below have the meaning ascribed to them unless the context otherwise requires:

“agent” means the agent of an offeror who has been engaged to sell or offer particular goods or services or opportunities on an offeror’s behalf;

“classified site” means a web site on which goods or services of a particular type such as vehicles for sale, real estate for sale, employment vacancies or properties for rental are listed and the operator of the site is not the offeror of those goods, services or opportunities listed and is not the agent of the offeror;

“client site” means a web site on which goods or services of a particular type, such as vehicles for sale, real estate for sale, employment vacancies or properties for rental are listed and the operator of the site is either the offeror of the goods, services or opportunities listed or has been engaged by the offeror as its agent;

“general site” means a web site that is or proposes to be a starting site for users when they get connected to the web or that users tend to visit as an anchor site;

“internet classified business” means the business of an owner or operator of a classified site;

“offeror” means the owner, vendor, provider, supplier, acquirer or offeror of any particular goods, services or opportunities listed as being available or offered on a web site being the person with whom any person wishing to acquire those goods or services, or take up those opportunities, would contract in order to do so.

ACKNOWLEDGMENTS

- 9. Qld News acknowledges that the Commission will make the undertaking available for public inspection.
- 10. Qld News further acknowledges that the Commission will from time to time publicly refer to this undertaking.
- 11. Qld News further acknowledges that this undertaking in no way derogates from

the rights and remedies available to any other person arising from the alleged conduct.

IN WITNESS of these undertakings
and its agreement the common seal of
QUEENSLAND NEWSPAPERS PTY LTD
(ACN 009 661 778) was hereunto affixed by
Authority of the Board of Directors in
the presence of:



Secretary/Director

Director

This Twenty-fifth day of November 2002.

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

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Professor Allan Fels
Chairman

5/12/02