

**UNDERTAKING TO THE AUSTRALIAN  
COMPETITION AND CONSUMER COMMISSION  
GIVEN UNDER SECTION 87B**

**BY**

**SARAI HOLDINGS PTY LTD (ACN. 007 334 563) TRADING  
AS ZOEROS LIFESKILLS TRAINING**

**PERSON GIVING UNDERTAKING**

1. This undertaking is given to the Australian Competition and Consumer Commission (the Commission) by Sarai Holdings Pty Ltd (ACN. 007 334 563) trading as Zoeros Lifeskills Training of 223A Glebe Point Road, in New South Wales under section 87B of the *Trade Practices Act 1974* (the Act).

**BACKGROUND**

1. Sarai Holdings Pty Ltd trading as Zoeros Lifeskills Training is incorporated in New South Wales and conducts a training course business in New South Wales, Victoria and the Australian Capital Territory. Sarai Holdings Pty Ltd offers a variety of 'lifeskills training courses' to public and corporate clients.
2. In October 1999, Sarai Holdings Pty Ltd made a representation in a letter (**Annexure A**) promoting a series of training courses. The letter made the following representation:  
  
*"The course will continue to be offered for the price of \$395 until the February course in the year 2000, when it will increase to \$495, (to come in line with the GST Government changes)."*
3. The Commission wrote to Sarai Holdings Pty Ltd alerting it to the Commission's position that the representation was misleading contrary to section 52 of the Act, or may have constituted a false representation under section 53(e) of the Act.
4. In particular, the Commission informed Sarai Holdings Pty Ltd of its views that:
  - (a) the representation contained in paragraph 2 above implies that the price of the course will rise by approximately 25% once the Goods and Services Tax (GST) is introduced, where the actual position is that the introduction of the GST may result in the short term, in a price increase of no more than 10% in

the price of the course and possibly less depending on the cost of any inputs the price of which may have been reduced as a result of the removal of the wholesale sales tax; and

- (b) the representation contained in paragraph 2 above implies that the price of the course will rise in February 2000 due to the imposition of the GST, where the actual position is that there is no obligation to collect the GST and if collected it is likely that the price of the course will not rise until 1 July 2000 when the GST comes into effect.
5. After being informed by the Commission of the contravention of section 52 and section 53(e) in respect of the representation described at paragraph 2 above, Sarai Holdings Pty Ltd agreed to;
- cease the use of representations similar to those described in paragraph 2 above in all future publications, letters and advertising, to write to any person or entity to which similar representations have been made;
  - implement a trade practices compliance training course to be provided by a recognised trade practices compliance professional or legal practitioner; and
  - cooperate fully with the Commission.

## **COMMENCEMENT OF UNDERTAKING**

1. This undertaking comes into effect when:
- (i) the undertaking is executed by Sarai Holdings Pty Ltd, and
  - (ii) the Commission accepts the undertaking so executed.

## **UNDERTAKINGS**

1. Sarai Holdings Pty Ltd gives the following undertakings to the Commission for the purposes of section 87B of the *Trade Practices Act 1974*:-

### ***Conduct Undertakings***

- (i) Sarai Holdings Pty Ltd. will not cause to be published the same or similar representations as those described at paragraph 2 above, in any letters, newspapers or other media;
- (ii) Sarai Holdings Pty Ltd will not make representations concerning the GST to consumers where it does not have reasonable grounds for making the representation; and

### ***Advertising Undertakings***

- (iii) Sarai Holdings Pty Ltd will, at its own expense, correct the representation in paragraph 2 above by writing to any person or entity to which similar representations have been made, in a form approved by the Commission.

### ***Trade Practices Compliance Training Undertaking***

- (iv) Within two (2) months of the commencement of this undertaking taking effect, Sarai Holdings Pty Ltd will have completed trade practices compliance training at its own expense. Sarai Holdings Pty Ltd agrees to advise the Commission of the name of the compliance professional or legal practitioner retained to provide this training within one (1) month of the commencement of this undertaking.

The training will incorporate the following features:

(a) Aim:

The training will aim to:

- create a culture of compliance with the Act within Sarai Holdings Pty Ltd;
- prevent so far as reasonably possible, any contravention of the Act by Sarai Holdings Pty Ltd, its directors, employees or agents; and
- include procedures and mechanisms to minimise the likelihood of further contraventions of sections 52 and 53(e) of the Act.

(b) Policy:

Sarai Holdings Pty Ltd will formally adopt, or re-affirm:

- a policy of strict compliance with both the letter and spirit of the Act; and
- adopt, re-affirm and enforce sanctions against any director, employee or agent who is knowingly or recklessly concerned in a contravention of the Act.

(c) Compliance Infrastructure

Sarai Holdings Pty Ltd will appoint an appropriately qualified ~~named~~ <sup>employee</sup> ~~director~~ as the Sarai Holdings Pty Ltd Compliance Officer with overall responsibility for trade practices compliance.

The compliance training is to cover all directors, employees and agents of Sarai Holdings Pty Ltd whose duties could result in them being concerned

in conduct that might breach the Act (relevant staff).

As part of the compliance training, all information published or provided by Sarai Holdings Pty Ltd shall be reviewed by a person familiar with the Act, to ensure that such representations comply with the Act

(d) Education

Sarai Holdings Pty Ltd will develop, implement and maintain, an education program calculated to have the relevant staff conversant with the provisions of the Act to a level where:

- (i) General staff can avoid obvious contraventions and can identify more complex trade practices problems for referral to the most appropriate person in Sarai Holdings Pty Ltd compliance infrastructure;
- (ii) Persons with responsibility within the Sarai Holdings Pty Ltd compliance infrastructure can effectively carry out these responsibilities; and
- (iii) Sarai Holdings Pty Ltd's Compliance Officer can address more complex trade practices issues and (if that person is not legally qualified and able to give the relevant advice), identify issues which require referral to Sarai Holdings Pty Ltd's solicitors.

(e) Reporting Requirements

Within one (1) month of the completion of the training, Sarai Holdings Pty Ltd will direct the trade practices compliance professional or legal practitioner to submit a report to the Commission detailing the training provided. Should the report identify a need for further training Sarai Holdings Pty Ltd will undertake such training that the Commission may reasonably require upon receipt of the report. Sarai Holdings Pty Ltd will advise the Commission of further training arrangements within three weeks of receipt of a Commission direction seeking such further training.

## **ACKNOWLEDGMENTS**

1. Sarai Holdings Pty Ltd 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.
2. Sarai Holdings Pty Ltd acknowledge and accept that this undertaking in no way derogates the rights and remedies available to any person arising from Sarai Holdings Pty Ltd conduct.

Dated : 2<sup>nd</sup> November 1999  
November 1999

Signed on behalf of SARAI HOLDINGS PTY LTD by

[Handwritten Signature]

Signature

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Signature

J.G. KABEALO

Print Name



DIRECTOR

Director

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Print Name



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Director/Secretary

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

[Handwritten Signature]

Chairperson

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Dated: 10 December  
~~November~~ 1999