



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

**GIVEN BY**

**DES'S CABS PTY LTD (ACN 007 662 679)  
of 5 Oborn Street, Whyalla Norrie, in the State of South Australia**

**1. BACKGROUND**

- 1.1 Des's Cabs Pty Ltd, ACN 007 662 679 ("Des's Cabs"), in trade and commerce carries on business as a taxi owner and operator and a provider of radio network services to its taxis and private taxi owners and operators in the South Australian regional centres of Whyalla and Port Augusta.
- 1.2 Some years ago Des's Cabs agreed with private taxi owners in each of Whyalla and Port Augusta to introduce a roster which effectively limited the amount of time that taxis were permitted to work. Des's Cabs has, from time to time, agreed with private taxi owners in each of Whyalla and Port Augusta to vary the roster arrangement for each regional centre. As at April 2002 the Whyalla roster arrangement required one third of the approximately 35 taxis in Whyalla not to work between certain hours on Mondays and Tuesdays. As at April 2002 the Port Augusta roster arrangement required one quarter of the approximately 16 taxis in Port Augusta not to work between certain hours on Mondays, Tuesdays and Saturdays and three quarters of the taxis in Port Augusta not to work between certain hours on Sundays.
- 1.3 In May 2003, once the ACCC had brought the roster arrangements to the attention of Des's Cabs, the company and the private taxi owners in Whyalla and Port Augusta ceased operating the roster.
- 1.4 The Australian Competition and Consumer Commission ("the Commission") is concerned that the roster arrangement in Whyalla and Port Augusta may have constituted a contravention of section 45 of the Trade Practices Act by the making and giving effect to a contract, arrangement or understanding which:
  - (a) contains an exclusionary provision, being a provision the purpose of which is to restrict or limit the supply of taxi services to persons in those regional centres wishing to engage taxi services; and
  - (b) has the purpose, or would have or be likely to have the effect, of substantially lessening competition in the market for the provision of taxi services in Whyalla and Port Augusta respectively.
- 1.5 In order to address the Commission's concern Des's Cabs has agreed to give the Commission an Undertaking pursuant to section 87B of the Act, which is set out below.

## **2. UNDERTAKINGS**

- 2.1 Des's Cabs gives the following undertakings to the Commission for the purposes of section 87B of the Trade Practices Act, 1974:
- (a) Des's Cabs will refrain from agreeing to or operating a roster arrangement or system that specifies when taxis or taxi owners or operators are not permitted to seek work;
  - (b) Des's Cabs will, within 30 days of the date of this Undertaking, send a copy of this undertaking to each taxi owner in Whyalla and Port Augusta.
  - (c) Des's Cabs will ensure that its directors, within 3 months of the date of this Undertaking:
    - (i) attend a Trade Practices Compliance Program seminar ("the seminar") conducted by an independent external professional with trade practices law experience who is acceptable to the Commission;
    - (ii) the seminar addresses the provisions of sections 45 and 4D of the Act and follows the format specified in Annexure 1; and
    - (iii) within 1 week of the directors attendance at the seminar, notify the Commission of their attendance.

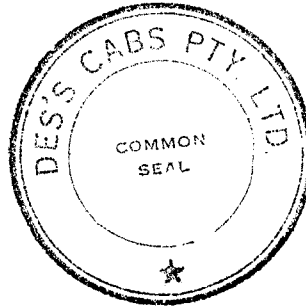
## **3. ACKNOWLEDGEMENTS**


- 3.1 Des's Cabs acknowledges that the Commission will make this undertaking available for public inspection.
- 3.2 Des's Cabs acknowledges that the Commission will from time to time publicly refer to this undertaking.
- 3.3 Des's Cabs acknowledges and accepts that this undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

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IN WITNESS OF THESE UNDERTAKINGS

THE COMMON SEAL OF )  
DES'S CABS PTY LTD) )  
was hereunto affixed by authority )  
of the Board of Directors )  
previously given in the presence of:



  
\_\_\_\_\_  
DIRECTOR

This 3<sup>rd</sup> day of November 2003.

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

  
\_\_\_\_\_  
CHAIRMAN

This 11<sup>th</sup> day of November 2003.

# **Annexure 1**

## **Trade Practices Compliance Program**

### **Seminar Outline**

1. Introduction
2. The Trade Practices Act
  - 2.1 Section 45; and
  - 2.2. Section 4D.
3. Conduct principles
  - 3.1 Contract, arrangement or understanding;
  - 3.2 Exclusionary provision; and
  - 3.3 Purpose or effect of substantially lessening competition.

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