



TRADE PRACTICES ACT 1974

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

BY

AUSTCOMM TELE SERVICES PTY LTD
(ACN 067 908 230 OF 679 MURRAY STREET, WEST PERTH IN THE STATE OF
WESTERN AUSTRALIA)

BACKGROUND

Austcomm Tele Services Pty Ltd ("Austcomm") is a company which resells telecommunication services.

Following an investigation by the Australian Competition and Consumer Commission ("ACCC"), Austcomm was informed that the ACCC considered that Austcomm had engaged in misleading and deceptive conduct in the marketing and promotion of Austcomm's telecommunications reselling services. The ACCC considered the following conduct to be in breach of section 52 of the Trade Practices Act 1974 ("the Act"):

- (A) A letter sent by Austcomm to an unknown number of potential customers over a period of approximately 6 months. This letter falsely gave potential customers the impression that Austcomm was in some way connected to Telstra. Further, the letter also gave the impression that the customers contractual relationship with Telstra would remain unchanged, when this was not the case;
- (B) A graph, provided by Austcomm, to be included in a promotional flyer that was distributed to all members of the Western Australian Retailers Association, that gave the impression that the discount package offered by Austcomm was the best in Australia. This claim can not be substantiated;

- (C) Austcomm failed to disclose in any of its written material that customers who signed up with Austcomm, may lose pensioner discounts currently offered them by Telstra.

Austcomm has fully co-operated with the ACCC inquiry into this matter.

UNDERTAKING

Austcomm undertakes for the purposes of section 87B of the Act:

1. to cease immediately any conduct which represents that the relationship between Telstra and Austcomm's customers remains unchanged;
2. to write to all their current customers:
 - (i) clarifying the fact that the customers no longer have any direct contractual relationship with Telstra and to specify that the contractual relationship now exists between Austcomm and the individual consumers;
 - (ii) informing them that they no longer have access to pensioner discounts offered by Telstra and offering to reimburse any customer who has lost their pensioner discount as a result of switching to Austcomm;
 - (iii) offering all customers the option of switching back to the arrangements they had prior to signing on with Austcomm, at no cost to the customer.
3. to write to all the members of Western Australian Retailers Association who were sent the promotional flyer referred to in B above:
 - (i) informing them that the graph appearing on page 1 of the flyer, representing that Austcomm's discounts were the best in Australia, cannot be substantiated;

(ii) informing them that if they sign up with Austcomm they will lose any existing pensioner discount currently offered by Telstra and offering to reimburse any customer who has lost their pensioner discount as a result of switching to Austcomm;

(iii) clarifying the fact that if they sign up with Austcomm, the customers will no longer have a direct contractual relationship with Telstra and to specify that the contractual relationship now exists between Austcomm and the individual consumers;

(iv) offering all customers of the WARA-Comm Telephone Savings scheme the option of switching back to the arrangement they had prior to signing on with Austcomm, at no cost to the customer.

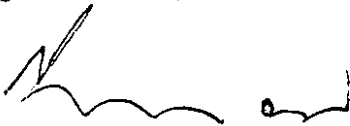
4. to get the approval of the ACCC for the form and content of the letters referred to in paragraphs 2 and 3 above, prior to sending them out.
5. to provide redress, in a manner suitable to the ACCC, to any customer who has lost their Telstra pensioner discount through signing up with Austcomm;
6. to switch any customer, who so requests, back to the arrangements they previously had before signing up with Austcomm, at no cost to the customer;
7. to establish a bone fide corporate compliance program within its operations, (substantially in line with the description and having the objectives as set out in Schedule 1) designed to ensure awareness of its responsibilities and obligations under the Trade Practices Act 1974 among its employees, servants and agents: such program to be implemented within 2 months of the date of giving this undertaking; and
8. to appoint an independent person or body, agreed to by the ACCC, to audit the implementation of these undertakings and report to the ACCC within 4 months of the giving of this undertaking. (The auditor's written report to state in relation to each undertaking whether or not the undertaking has been carried out and to state (with reasons), whether or not, in the opinion of the auditor the objectives of the corporate compliance program have been met.)

Austcomm acknowledges and accepts that this undertaking will be placed on the Commission's public register and agrees that the ACCC may otherwise publish and refer to this document at its discretion.

Austcomm also notes that this undertaking in no way derogates from the rights or remedies available to any other person arising from the alleged conduct.

IN WITNESS OF THESE UNDERTAKINGS

THE COMMON SEAL OF
AUSTCOMM TELE SERVICES PTY LTD
was hereunto affixed by authority of
the board of Directors previously
given in the presence of

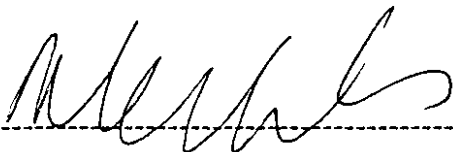


Director

this *FIRST* day of *FEBRUARY* 1995^{6.}



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



Professor Allan Fels
Chairperson

this *21* day of *February* 1995.

Schedule 1

Compliance Program

Austcomm Tele Services Pty Ltd

PURPOSE

The Compliance Program is designed to ensure that a culture of compliance with the Trade Practices Act ("the Act") is created within Austcomm Tele Services Pty Ltd ("Austcomm"). It is also designed to prevent any contravention of the Act by Austcomm as well as any of its directors, employees or agents.

POLICY

Austcomm will adopt a policy of strict compliance with both the letter and the spirit of the Act. Sanctions will be enforced upon any director, employee or agent who is knowingly or recklessly concerned in any contravention of the Act.

INFRASTRUCTURE

The Managing Director of Austcomm will be appointed compliance officer with responsibility for overall compliance with the Act. This includes, but is not limited to:

- establishing an effective system of quality control for all advertising and marketing material developed and issued by Austcomm;
- implementing an effective complaints handling mechanism; and
- implementing all undertakings relating to staff education which are detailed in this document.

COVERAGE

The program will cover all directors, employees and agents of Austcomm whose duties could result in them being involved in conduct that might breach the Act ("relevant staff").

MATERIALS

Austcomm will purchase a copy of the ACCC publication "Best and Fairest" for use in staff training and education.

SEMINARS

An appropriate ACCC officer will conduct an initial seminar for all relevant staff of Austcomm. This seminar will be compulsory and the costs will be met by Austcomm. The seminar will focus on familiarising relevant staff with the Act, with particular emphasis on Part V and consumer protection.

For the three years after the initial seminar, Austcomm will be responsible for conducting an annual seminar for all relevant staff on compliance with the Act. The format and program of these seminars is to be approved by the ACCC.

EDUCATION

Austcomm will identify, in consultation with the ACCC, an appropriate curriculum of study for each relevant staff member. This curriculum is to be based on the modules in the "Best and Fairest" publication.

Austcomm will provide a written report each year, for three years, to the ACCC, detailing staff exposure to the agreed "Best and Fairest" modules and the staff's performance on the test questions contained within the modules.