



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

GIVEN BY

St. John Ambulance Australia W.A. Ambulance Service Inc.

BACKGROUND

Between March and September 1995, St. John Ambulance Australia W.A. Ambulance Service Inc. ("St John") was involved in the promotion of a 'Phone Saver' offer to its members. This offer involved telecommunications reselling services, provided by IBM Australia Limited ("IBM").

Following an investigation by the Australian Competition and Consumer Commission ("ACCC"), St. John was informed that the ACCC considered that St. John had engaged in misleading and deceptive conduct in the promotion of the offer. The ACCC considered the following conduct to be in breach of section 52, 53(c) and 53(g) of the Trade Practices Act 1974 ("the Act"):

- [a] A letter sent by St. John to its members, between March and September 1995, falsely gave the impression that members were continuing their relationship with Telstra. It also was not made clear that upon accepting the offer, members would enter into a telecommunications reselling arrangement.
- [b] the letter falsely implied that the offer was a St. John/IBM initiative, designed solely to provide members with discounted telephone call costs. As a result members' objectivity was obscured;
- [c] St. John failed to disclose in the letter that customers who accepted the offer, would lose all discounts currently offered them by Telstra.

Whilst St John Ambulance does not necessarily agree with the findings of the ACCC investigation it does acknowledge that:

1. The letter sent by St John to its members, between March and September 1995 may have been misleading to its members in that it did not specify that members would not continue their relationship with Telstra. It was also not made clear that upon accepting the offer, members would enter into a telecommunications reselling arrangement.
2. While the scheme was a St John/IBM initiative that would provide members with telephone discounts, members were not advised that there were other organisations involved in initially proposing the scheme to St John Ambulance and in acting as IBM's agents in actually handling and processing the scheme.
3. St John Ambulance while pointing out the level of discounts that could be obtained in large print on the front of the offer advised members that acceptance of this offer would mean they would lose any preexisting flexiplan with Telstra by way of a condition listed

on the rear of the one page letter in a box measuring 190mm by 83mm containing six (6) conditions of participation. The box with the conditions was shaded in red and had a bold red heading of "CUSTOMER INFORMATION".

UNDERTAKINGS

St. John Ambulance Australia W.A. Ambulance Service Inc. gives the following undertaking to the Australian Competition and Consumer Commission for the purposes of section 87B of the Trade Practices Act 1974:

- (1) having ceased offering the scheme to members in September 1995 will not engage in any further conduct which may represent that the relationship between Telstra and the member remains unchanged;
- (2) has, prior to the time of making this undertaking written to all members who accepted the offer;
 - (i) informing them that they no longer have any direct contractual relationship with Telstra and specifying what contractual relationship now exists between the member and the service provider;
 - (ii) informing them that they no longer have access to pensioner discounts offered by Telstra and offering to compensate any member who has suffered financial detriment as a result of this, by way of free St. John membership to the value of the financial loss;
- (3) pay all monies held in trust for members as a result of the discounts the members have received for their respective STD and ISD calls;
- (4) implement a Corporate Compliance Program for St. John Ambulance Australia Inc. The Corporate Compliance Program will contain the following items:
 - (i) implement an in-house corporate compliance program based on the Commission's Best and Fairest package. This training will involve key management and operational staff.
 - (ii) undertake an audit to assess the effectiveness of this compliance program at the completion of the initial compliance training program and again 12 months later. The audit will be carried out by an independent person and may report this to the Perth office of the Commission;
 - (iii) bear the cost of carrying out the undertakings set out in this document.
- (6) St John Ambulance Australia W.A. Ambulance Service Inc. acknowledges that the Australian Competition and Consumer Commission will make the undertaking available for public inspection;
- (7) St. John Ambulance Australia W.A. Ambulance Service Inc. acknowledges that the Australian Competition and Consumer Commission will from time to time publicly refer

to the undertaking.

- (8) St. John Ambulance Australia W.A. Inc. 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.

IN WITNESS OF THESE UNDERTAKINGS

THE COMMON SEAL OF)
St. John Ambulance Australia W.A. Ambulance Service Inc.)
was hereunto affixed by authority)
of the Executive Director)



Ian C. Esqui

EXECUTIVE DIRECTOR

This *1st* day of *March* 1996.

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

Allan Kels

CHAIRMAN

This *7* day of *March* 1996.

St John Ambulance Australia
W.A. Ambulance Service Inc.



Your Personal THANK YOU!

We'd like to thank you for your continued support of St John Ambulance so we've come up with a special offer for you and your family.

Dear Member

For some time now the team at St John Ambulance have wanted to find a special way to say **Thank You** to our valued members...to people who continually favour us with much needed funds for Ambulance care in Western Australia.

So we are writing to let you know about a new offer we are making available to our members. It's an offer designed to give you "preferred" Telecom discount rates for both your local and long distance calls from your private home telephone.

Before I explain your Free Offer I should tell you that this service is an initiative between **IBM Australia** and **St John Ambulance**... so you are guaranteed to receive a continued high level of customer service.

And in case you are wondering... this great offer has no hidden costs attached to it, there are **NO** fees to pay... you simply benefit from reduced telephone charges... it's our way of saying thank you for all your continued support.



Here is the Discount Plan that you
can now take advantage of:

6%

Firstly you will receive a 6% discount on all your local call costs. This will be shown on each of your future Telecom phone accounts...

10%

And secondly you will receive a 10% annual rebate cheque, which will be sent to you from St John Ambulance, on all your long distance and international calls. This includes calls to mobile phones.

Please turn over...

Please address all
correspondence to
the Executive Director

**St John Ambulance Australia
W.A. Ambulance Service Inc.**



PO Box 183
Belmont WA 6104
209 Great Eastern
Highway
Belmont WA 6104
Telephone (09) 334 1222
Fax (09) 277 6662

Enquiries Benefit Fund
Our Reference PK:psh10

Mr D.Sample
11 Sample Road
Sampletown WA ????

29 January 1996

Dear Mr Sample,

Please read both sides of this letter very carefully.

Last year, St John Ambulance introduced you to the Phonesaver Discount Program. While the programme has provided many of our Members with worthwhile benefits, there have also been many complaints from other Members concerning difficulties which they have experienced with the programme.

We at St John Ambulance believed that on accepting this offer our Members relationship with Telstra would remain unchanged. This did not prove to be the case. On accepting this offer, our Members entered into an arrangement with a "service provider" and lost their direct relationship with Telstra, including arrangements such as pensioner rebates.

We have been advised by I.B.M.(the service provider) that the Phonesaver Discount Programme will be discontinued from 1 February 1996. As a result we recommend that you fill in the attached coupon and return it in the envelope provided as soon as possible.

When you complete the attached form, it will authorise the transfer of your telephone account back to Telstra as your service provider. The reverse side of this letter provides important details regarding this process that we ask you carefully read through.

It had always been our intention to provide Members who chose to join the Phonesaver programme with a worthwhile benefit which was efficiently administered with a minimum of fuss. That some of our Members have experienced difficulties with the programme is of great embarrassment to us and we extend our sincere apologies to those who have been inconvenienced.

Yours sincerely,

Ian Kaye-Eddie
EXECUTIVE DIRECTOR



CUSTOMER AUTHORITY

SECTION 1

AUTHORITY

To: *IBM*

I wish to cancel my/our agreement whereby *You* supply *Me* with telecommunications services on the accounts listed in Section 3. I would like our agreement cancelled, effective from the first day of the billing cycle in which *Telstra* processes this form. I understand that I will then be supplied telecommunications services by *Telstra*.

APPLICATION

To: *Telstra*

I apply to become *Telstra's* customer for the following accounts. I acknowledge that *Telstra* will provide services to *Me* on the terms set out in its Basic Carriage Service Tariffs.

I acknowledge that I will be responsible for any outstanding amounts on my last bill.

Note: Copies of *Telstra's* Basic Carriage Service Tariffs are available at all *Telstra* Customer Centres.

SECTION 2

Am I entitled to a concession?

Tick the following boxes if they apply to you:

- I apply for a pensioner concession and My pensioner number is:
- Please specify account number pensioner concession should be applied to
- I apply for a charitable concession and attach a copy of My Item 140(c) statement from the Australian Taxation Office.

If you are a business customer please complete

Full Company or Trading Name

ACN (if applicable).....

Name of Authorized Representative

Position

SECTION 3

Please complete the following for all your accounts. An example is completed for you.

Account Number (from top left hand corner of the bill)	The telephone number for this account	Account Name - Person responsible for paying this account	Postal Name and address for this account
0012345000	01 254952	John Citizen	John Citizen P.O Box 123, Weston NSW 2301

SECTION 4

CUSTOMER AUTHORISATION

Print Name:

Authorised Signature: Date:

Once you have completed this form please return to: FreePost No. 26, IBM/PhoneSaver Plan 46 Frobisher St, Osborne Park 6017 in the reply paid envelope enclosed.

Office Use Only

Service Provider Name: _____

Contact Number: _____

Contact Name: _____