

**TRADE PRACTICES ACT 1974****UNDERTAKINGS TO THE TRADE PRACTICES COMMISSION
GIVEN FOR THE PURPOSES OF SECTION 87B****BY****BING LEE ELECTRICS PTY LTD
A.C.N: 000 733 488****BACKGROUND**

Bing Lee Electrics Pty Ltd (Bing Lee) is incorporated in the State of New South Wales. Bing Lee is a retailer of various products including mobile telephones, from 17 stores located in the greater Sydney metropolitan and Illawarra areas. Bing Lee is also an agent of Telstra Corporation Limited ("Telstra") for the purpose of receiving from customers executed and correctly and fully completed Application Forms for connection to the Telecom MobileNet mobile telephone network, and processing those forms in accordance with its agreement with Telstra.

On 5 and 6 February 1995 Bing Lee advertised for sale mobile telephones at particular prices on the condition that the purchasers connected those mobile phones to the Telecom MobileNet mobile telephone network. On 5 and 6 February 1995 employees of Bing Lee informed purchasers, or potential purchasers, that the mobile phones could only be purchased at the advertised price on the condition that the purchasers connected those mobile phones to the Telecom MobileNet mobile telephone network. Bing Lee states that on 5 February 1995, it sold 100 Dynasty phones; 120-130 NEC Sportz phones; 300-350 Nokia 100 phones and 180 Nokia 101 phones. Prior to this promotion, Bing Lee states that its normal sales of all types of mobile phones was in the range of 60-70 per month.

On 6 February 1995 the Commission wrote to Bing Lee informing it, inter alia, that it believed that such conduct was in breach of s47(6) of the Trade Practices Act 1974 ("the Act"). Since receiving that letter Bing Lee has sent memorandums to all staff advising them of s47(6), and what its effect is in relation to the sale of mobile phones. Bing Lee also had the offending advertisements withdrawn as of 7 February 1995.

UNDERTAKING

Bing Lee undertakes for the purposes of section 87B of the Trade Practices Act 1974 that:

1. It will not, by itself, its servants, agents or otherwise howsoever, supply or offer to supply a mobile phone on the condition that the purchaser must connect the mobile phone to a specified mobile phone network.
2. It will not, by itself, its servants, agents or otherwise howsoever, supply or offer to supply a mobile phone at a specified price on the condition that the purchaser must connect the mobile phone to a specified mobile phone network.
3. It will not, by itself, its servants, agents or otherwise howsoever, give or allow, or offer to give or allow, a discount, allowance or credit in relation to the supply or proposed supply of mobile phones on the condition that the purchaser must connect the mobile phone to a specified mobile phone network.
4. It will, within 3 months of the signing of this undertaking, develop for consideration by the Commission a Trade Practices Compliance program with the following characteristics:

(a) Aim

to create a culture of compliance within Bing Lee and to prevent, so far as is reasonably possible, any contraventions of the Act by the Group or by its directors, employees or agents.

(b) Policy

The formal adoption, or reaffirmation, by Bing Lee, of a policy of strict compliance with both the letter and spirit of the Act within Bing Lee and the adoption, or reaffirmation, and enforcement of sanctions against any director, employee or agent who is knowingly or recklessly concerned in a contravention of the Act.

(c) Compliance Infrastructure

The appointment of an appropriately qualified senior executive as the Compliance Officer with overall responsibility for Trade Practices compliance.

(d) Coverage

The compliance program to cover all directors, employees and agents of Bing Lee whose duties could result in them being concerned in conduct that might breach the Act ("relevant staff").

(e) Education

Development and implementation of 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 potential Trade Practices problems for referral to the appropriate person in Bing Lee compliance infrastructure;
- (ii) persons with responsibilities within Bing Lee compliance infrastructure can effectively carry out those responsibilities; and
- (iii) the Bing Lee 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 Bing Lee's legal advisers.

5. Bing Lee will make whatever changes the Commission may reasonably suggest in relation to the Trade Practices Compliance Program referred to in 4 above.
6. The Trade Practices Compliance Program referred to in 4 above is to be implemented by Bing Lee within 3 months of approval having been given by the Commission to its form and content, and is to remain in force for a minimum period of 5 years from the signing of this undertaking.

ACKNOWLEDGMENTS

Bing Lee acknowledges and accepts that this undertaking will be placed on the Commission's Public Register and agrees that the Commission may otherwise publish and refer to this document at its discretion.

Bing Lee 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

BING LEE ELECTRICS PTY LIMITEDwas hereunto affixed by authority of the board
Directors previously given in the presence of:

A handwritten signature in black ink, appearing to be "Sho", written over a horizontal line.

This

10th

day of

April

, 1995

ACCEPTED BY THE TRADE PRACTICES COMMISSION PURSUANT TO
SECTION 87B OF THE TRADE PRACTICES ACT

A handwritten signature in black ink, appearing to be "Allan Fels", written over a horizontal line.

(PROFESSOR ALLAN FELLS)
CHAIRMAN

This

24

day of

April

, 1995

We won't be beaten on price!!!

NEC

Sportz II

- Signal strength indicator
- Battery level indicator
- Call to absolute display
- Number speed dial memory
- Auto redial

NOKIA

100

- Superior performance
- Fast charger
- Retractable antenna
- 22 hour standby/100 minute talk time

MOTOROLA

ULTRA LIGHT

- It vibrates and rings
- 2 batteries
- Fast charger
- 100 alphanumeric memory
- Small and lightweight

MICROTAC

1500

- Pocket size - business power
- 150 minutes continuous talk time, 36 hours standby
- 3-year warranty

\$299

\$299

\$299

\$399

Telecom MobileNet covers 84% of Australia's population.

* The 11 capital cities, selected regional centres and most connecting highways.

Telecom

NEW AUSTRALIA

MobileNet

Premium Dealer

Jaw Dropper Deals

Connect to Telecom MobileNet from only \$10 per month (plus calls).

Any new connections to Telecom MobileNet automatically entitles you to \$50 credit on your mobile phone bill and other benefits.

SAH 847/112-95

