



TRADE PRACTICES ACT 1974

VARIATION TO UNDERTAKING
TO THE TRADE PRACTICES COMMISSION GIVEN PURSUANT
TO SECTION 87B

by

AUSTEREO LIMITED (ACN 007 914 641) ("Austereo")

BACKGROUND

On 27 October 1994 Austereo entered into an undertaking to the Trade Practices Commission ("TPC") pursuant to Section 87B of the Trade Practices Act 1974 ("the Undertaking") in relation to the then proposed merger of the Triple M Radio Network of Village Roadshow Limited (ACN 010 672 054) ("Village") with the radio network of Austereo more particularly described in the Undertaking.

On 30 November 1994 the proposed merger was effected by Village and Austereo.

TPC Consideration of Proposed Merger

The TPC was of the view that certain aspects of the proposed merger, unless modified, may have contravened Section 50 of the Trade Practices Act 1974. ("the Act")

Amongst other things, the TPC was concerned that the ownership by Austereo of three commercial radio broadcasting licences in Melbourne as a result of the proposed merger, may have the effect of substantially lessening competition for the supply of commercial radio broadcasting services in Melbourne.

As a result the Undertaking provided the following undertaking by Austereo:

"Melbourne Divestiture Undertakings

Austereo undertakes for the purpose of Section 87B of the Act that :

- (1) if Village directly or indirectly:
 - (a) obtains control of, or the ability to control, the composition of the Board of Directors of Austereo; or

(b) becomes entitled to more than 50% of the issued ordinary shares in Austereo

Austereo will cause directly or indirectly Austereo to sell within six months from the earliest date ("the trigger date") on which either (a) or (b) occurs, but in any event the trigger date shall be no earlier than 1 December 1994, ("the divestiture period") on an arms length basis, radio station Gold 104 FM including the business and all of the assets used in the business of radio broadcasting carried on under the radio station name Gold 104 FM including the fully paid ordinary shares in KZFM Radio Pty Limited (ACN 005 503 917) and the commercial radio broadcasting licence number CRB 81 -1994 (but excluding assets which the TPC consents in writing may be excluded from the sale, such consent not to be unreasonably withheld having regard, inter alia, to the use to which the asset is put, its availability from other sources and the ability of the radio station to be sold as a going concern) (collectively the "Gold 104 FM radio station") to a company that is not a related body corporate or an associated body corporate of either Village or Austereo:

- (2) if at the expiration of 6 months from the trigger date the Gold 104 FM radio station has not been sold Austereo will cause directly or indirectly the radio station to be put up for sale within two months of the expiration of the divestiture period in the manner and on the terms directed by the TPC."

Austereo has caused the sale by Radio and Research Pty Ltd (ACN 005 486 180) and KZFM Radio Pty Ltd (ACN 005 503 917), both wholly owned subsidiaries of Austereo Limited, of the business and assets used in the business of radio broadcasting carried on under the radio station name Gold 104 FM, and the commercial radio broadcasting licence CRB 81 - 1994, to APN Broadcasting Services Pty Ltd (ACN 067 769 466) ("the Purchaser") with settlement having occurred on the 11th May 1995. Since that settlement the Purchaser has continued the commercial radio broadcasting business of radio station Gold 104 FM.

The Purchaser did not wish to purchase the shares in KZFM Radio Pty Limited, choosing instead to purchase assets used by KZFM Radio Pty Limited in the business of radio station Gold 104 FM, and thereby achieving the objective of that aspect of the Undertaking.

In the circumstances, the TPC has agreed that the provisions of clauses (1) and (2) of the Undertaking should cease to apply insofar as they require any divestiture of shares in KZFM Radio Pty Limited.

Accordingly, the TPC has agreed to a variation of the Undertaking pursuant to Section 87B(2) of the Act.

PARTICULARS OF VARIATION

Pursuant to Section 87B(2) of the Act, Austereo hereby varies, and the TPC hereby consents to the variation of of the Undertaking, by the deletion of the following words from clause (1):

"including the fully paid ordinary shares in KZFM Radio Pty Limited (ACN 005 503 917)"

ACKNOWLEDGMENTS

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

Austereo also notes that this Variation in no way derogates from the rights or remedies available to any person.

IN WITNESS OF THIS VARIATION OF UNDERTAKING

the Common Seal of Austereo Limited)
(ACN 007 914 641) was hereunto)
affixed with the authority of the Board of)
Directors previously given in the)
presence of)

Philip Leung



J

Dated : 29 MAY 1995

Accepted by the Trade Practices Commission pursuant to Section 87B of the Trade Practices Act 1974

(Professor Alan Fels)
CHAIRMAN

This *Alan Fels*1995

June 7 1995