



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

BY

**AMERICAN EXPRESS INTERNATIONAL, INC.
ARBN 000 618 208**

Definitions

ACCC means the Australian Competition and Consumer Commission.

Act means the *Trade Practices Act 1974*.

Amex means American Express International, Inc. ARBN 000 618 208.

Cardmember means an Amex customer who held an Amex charge card, known as a Platinum Card, in the period of 1 January 1998 to 30 August 2003.

IAP means the International Airline Program operated by Amex for Cardmembers.

Background

1. Since its introduction in 1998 and until its revision in September 2003, Amex's IAP was advertised by Amex as entitling Cardmembers to purchase a specially negotiated ticket for first or business class air travel on a participating airline ("an IAP ticket") and receive a free, complimentary or bonus companion ticket entitling a second person to accompany the Cardmember on that trip.
2. A number of Cardmembers have complained to the ACCC that the purchase of an IAP ticket would not or did not result in them receiving a second companion ticket that was free, complimentary or bonus. Some Cardmembers have found that they would have been able to purchase comparable tickets for air travel at a price that suggested that the companion ticket made available with an IAP ticket was not free, bonus or complimentary.
3. The ACCC notes that, in many cases, the purchase of an IAP ticket resulted in some savings for Cardmembers over the price of buying two comparable tickets for air travel from outlets available to the general public.
4. The ACCC was concerned that representations made by Amex, to the effect that Cardmembers would by purchasing one specially negotiated IAP ticket be entitled to one free, complimentary or bonus companion ticket, were

inaccurate. The ACCC was concerned that these representations were misleading and deceptive in contravention of section 52 of the Act. Further, the ACCC was concerned that the representations as to the entitlement to a free, complimentary or bonus companion ticket were false and misleading representations as to a benefit that the IAP ticket did not have, in contravention of sub-section 53(c) the Act.

5. Amex accepts that there was some misapprehension or confusion on the part of some Cardmembers in relation to the benefits of its IAP.
6. In response to the ACCC's concerns and complaints by Cardmembers, Amex has offered this undertaking to the ACCC.

When will the Undertaking commence?

7. This undertaking will commence when:
 - (a) the undertaking is executed by Amex; and
 - (b) the ACCC accepts the undertaking.

Undertakings

Amex to offer refunds

8. Within three months of this undertaking commencing Amex will:
 - (a) write to Cardmembers who cancelled their Platinum Card before first anniversary or did not renew their Platinum Card beyond one year, in the form annexed and marked 'Schedule A'; and
 - (b) write to each other Cardmember who has purchased an IAP ticket and received a companion ticket (by billing insert or separate letter), in the form annexed and marked 'Schedule B'.
9. Amex will make reasonable enquiries to identify the Cardmembers (and their current address details) to whom Amex is required to write under paragraph 8 above.
10. Where the Cardmember, within 90 days of the date of the written communication referred to in paragraph 8, makes a claim and provides a statutory declaration stating that he or she applied for a Platinum Card on the

basis that it would provide IAP benefits and was not provided with the benefits from the IAP program that he or she believed were offered by Amex and the Cardmember:

- has not purchased a ticket for air travel under the IAP scheme;
- cancelled their Platinum Card at or before its first anniversary, or did not renew their Platinum Card beyond one year, because it did not provide the IAP benefits; and
- has not previously been paid compensation by Amex for the same or substantially similar claim;

Amex will, within 90 days of receipt of the Cardmembers claim, pay an amount that represents a refund of the annual Platinum Card membership fee paid by the Cardmember.

11. Where the Cardmember, within 90 days of the date of the written communication referred to in paragraph 8, makes a claim and provides a statutory declaration stating that he or she was not provided with the benefits from the IAP program that he or she believed were offered by Amex with details of the claim that he or she was misled and the Cardmember:

- has purchased an IAP ticket and received a companion ticket; and
- has not previously been paid compensation by Amex for the same or substantially similar claim;

Amex will, within 90 days of receipt of the Cardmembers claim, pay an amount that is 10% of the price paid for the IAP ticket.

12. Payment of an amount referred to in paragraph 11 will be limited to payment in relation to the first purchase of an IAP ticket and no claim may be made under this undertaking for any second or subsequent purchases.
13. Payment of an amount referred to in paragraphs 10 or 11 will be credited to existing Cardmembers' accounts or paid by cheque for past or inactive Cardmembers. If, however, an existing Cardmember's account is in arrears, Amex is entitled to withhold payment until the arrears are discharged.

14. Amex will make available all reasonable assistance to Cardmembers to understand the nature of this offer and assist Cardmembers to make a claim in accordance with the terms of this undertaking.
15. Within 4 months of this undertaking commencing, Amex will provide to the ACCC a report and audit of the amounts paid to Cardmembers under these processes and will continue to so report on a 3 monthly basis thereafter until Amex's obligations under this undertaking have been discharged.

Amex to review trade practices compliance program

16. Amex will:
 - (a) review its procedures to ensure the IAP advertising and promotional material complies with Amex's obligations under Part V of the Act;
 - (b) effect changes that are identified as being necessary by the review to ensure Amex's compliance with Part V of the Act;
 - (c) provide a report to the Commission, within 3 months of the undertaking beginning, of changes that have been made by Amex to the processes used by Amex to ensure compliance with Part V of the Act and whether the changes have resulted in Amex complying with its obligations under Part V of the Act.
 - (d) if requested by the Commission, have an independent person or organisation prepare a report to the Commission, within 3 months of the provision of the report referred to in paragraph 16(c), confirming that any changes that have been made by Amex to its processes have resulted in Amex complying with its obligations under Part V of the Act.
17. The report which if requested by the Commission under paragraph 16(d) in relation to the review of and changes to Amex's compliance program shall be prepared by a suitably qualified independent person to be agreed with the ACCC.

Undertakings are to be made public

18. The Commission will make these undertakings and any report provided to the Commission in accordance with these undertakings available for public inspection and may publicly refer to the undertakings and reports.

Undertakings do not stop consumers from making their own claims

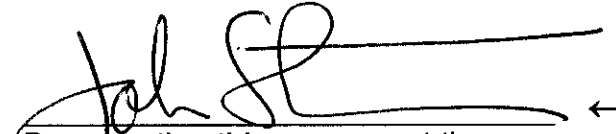
19. These undertakings in no way derogate from the rights and remedies available to any person arising from the alleged conduct.

IN WITNESS TO THESE UNDERTAKINGS

Signed by John Steward
an authorised representative for
**AMERICAN EXPRESS
INTERNATIONAL, INC.** in the
presence of



Signature of witness


← _____ ←

By executing this agreement the
signatory warrants that the signatory
is duly authorised to execute this
agreement on behalf of **AMERICAN
EXPRESS INTERNATIONAL, INC.**

PETER J. ANDERSON

Name of witness (print)

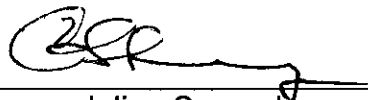
179 LIVERPOOL ST., SYDNEY

Address of witness

SOLICITOR

Occupation of witness

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



Graeme Julian Samuel
Chairman

DATED: 30th July 2004

Draft Offer to past Platinum Cardmembers

[date]

Dear [Insert name]

Platinum Card IAP Program - Compensation Offer

One of the benefits of membership of the American Express Platinum Card is exclusive access to the International Airline Program (IAP) which was changed to Airline Privileges in September 2003.

Before September 2003 we advised you that under the IAP, you could buy a specially negotiated first or business class ticket for travel on a participating airline and you would receive a free, complimentary or bonus companion ticket.

While our Cardmembers can make considerable savings when purchasing tickets for international air travel with participating airlines, some Cardmembers found that they could purchase comparable tickets at a price which led them to question whether the companion ticket made available with IAP tickets was free, bonus or complimentary.

The Australian Competition and Consumer Commission raised these concerns with us, and as a result we have worked together to develop this compensation offer. We sincerely apologise, as it was not our intention to mislead you about the benefits of IAP.

Communications since September 2003 have been revised to ensure clarity of the program.

What compensation can you receive?

We are offering to pay compensation to you in one of two ways. If you:

- did not take advantage of the IAP;
- cancelled your Platinum Card membership at or before the first anniversary, or did not renew your Platinum Card beyond one year; and
- believe you were misled,

we will pay you a refund of one year's Platinum Card membership fee..

Alternatively, if you:

- did take advantage of the IAP; and
- believe you were misled,

we will pay you an amount that is 10% of the price of the IAP ticket. Where you have purchased 2 or more IAP tickets, our offer only relates to the first IAP ticket purchased.

For your information, we didn't receive any complaints about Air New Zealand in the IAP programme

When will you not be entitled to compensation?

We can not pay compensation:

- (a) if you have not sent the statutory declaration referred to below;
- (b) if you do not make a claim for compensation within 90 days of the date of this letter;
- (c) in the case of claims in relation to IAP ticket purchase, if you have not purchased an IAP ticket;
- (d) in the case of claims relating to Platinum Card membership fee, if you have purchased an IAP ticket;
- (e) in the case of claims in relation to IAP ticket purchase, for any claim made for any second or subsequent IAP ticket purchases;
- (f) if you have already been paid compensation by American Express for the same or substantially similar claim; **or**
- (g) if your account is in arrears, in which case you will have to pay any amount in arrears before compensation will be paid.

What you will need to do to seek compensation

You must complete a statutory declaration:

1. if your claim relates to Platinum Card membership fees, stating that you applied for a Platinum Card on the basis that it would provide IAP benefits and were not provided with the benefits from the IAP you believe you were promised by American Express and that you are seeking a refund of one annual Platinum Card membership fee;

or

2. if your claim relates to an IAP ticket purchase, stating that you were misled concerning the companion ticket made available with IAP tickets, stating details of how you were misled, and requesting that American Express pay you 10% of the price of the IAP ticket.

If you have any documentation including a copy of your Platinum Card statement that would assist in identifying the difference between the cost to you of an IAP ticket and a comparable market ticket at the time you sought to use the IAP, this should also be provided.

How and when we will pay you compensation

Claims, made in writing and including the statutory declaration referred to above, must be lodged within 90 days of the date of this letter. All claims should be sent to the following address:

[address]

Claims processing is expected to be completed within 90 days of the date of receipt of your claim. We will telephone or write to you to advise the outcome of your claim and if we are to pay you any moneys we will send you a cheque.

Any Questions?

We will provide you with all reasonable assistance to understand the nature of this offer and, if necessary, will assist you to make your claim. If you have any questions, you should call us on [Amex Contact details] or the Australian Competition and Consumer Commission on 1300 302 502.

Yours sincerely

Customer Relations

Draft Offer to current Platinum Cardmembers

[date]

Dear [Insert name]

Platinum Card IAP Program - Compensation Offer

One of the benefits of membership of your American Express Platinum Card is exclusive access to the International Airline Program (IAP) which was changed to Airline Privileges in September 2003.

Before September 2003 we advised you that under the IAP, you could buy a specially negotiated first or business class ticket for travel on a participating airline and you would receive a free, complimentary or bonus companion ticket.

While our Cardmembers can make considerable savings when purchasing tickets for international air travel with participating airlines, some Cardmembers found that they could purchase comparable tickets at a price which led them to question whether the companion ticket made available with IAP tickets was free, bonus or complimentary.

The Australian Competition and Consumer Commission raised these concerns with us, and as a result we have worked together to develop this compensation offer. We sincerely apologise, as it was not our intention to mislead you about the benefits of IAP.

Communications since September 2003 have been revised to ensure clarity of the program.

What compensation can you receive?

If you took advantage of the IAP and believe you were misled, we will pay you an amount that is 10% of the price of the IAP ticket. For your information, we didn't receive any complaints about Air New Zealand in the IAP programme.

Where you have purchased 2 or more IAP tickets, our offer only relates to the first IAP ticket purchased.

When will you not be entitled to compensation?

We can not pay compensation:

- (h) if you have not sent the statutory declaration referred to below;
- (i) if you do not make a claim for compensation within 90 days of the date of this letter;
- (j) if you have not purchased an IAP ticket;
- (k) for any claim made for any second or subsequent IAP ticket purchases;
- (l) if you have already been paid compensation by American Express for the same or substantially similar claim; **or**
- (m) if your account is in arrears, in which case you will have to pay any amount in arrears before compensation will be paid.

What you will need to do to seek compensation

You must complete a statutory declaration stating that you were misled concerning the companion ticket made available with IAP tickets, stating details of how you were misled, and requesting that American Express pay you 10% of the price paid for the IAP ticket.

If you have any documentation including a copy of your Platinum Card statement that would assist in identifying the difference between the cost to you of an IAP ticket and a comparable market ticket at the time you sought to use the IAP, this should also be provided.

How and when we will pay you compensation

Claims, made in writing and including the statutory declaration referred to above, must be lodged within 90 days of the date of this notice. All claims should be sent to the following address:

[address]

Claims processing is expected to be completed within 90 days of the date of receipt of your claim. We will telephone or write to you to advise the outcome of your claim.

Where compensation is payable, we will credit your Platinum Card with the amount of compensation.

Any Questions?

We will provide you with all reasonable assistance to understand the nature of this offer and, if necessary, will assist you to make your claim. If you have any questions, you should call us on [Amex Contact details] or the Australian Competition and Consumer Commission on 1300 302 502.

Yours sincerely

Customer Relations