



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

BY

C7 PTY LTD (ACN 082 901 442)

PERSON GIVING UNDERTAKING

- 1) This undertaking is given to the Australian Competition and Consumer Commission ('the Commission') by C7 Pty Ltd of Level 13, 1 Pacific Highway, North Sydney, in the State of New South Wales under section 87B of the *Trade Practices Act 1974* ('the Act').

BACKGROUND

- 2) C7 Pty Ltd ("C7") is incorporated in Western Australia and carries on the business throughout Australia of providing pay television programs.
- 3) In or around August 2000 and September 2000 C7 advertised in Austar and Foxtel pamphlets and viewing guides for the month of September 2000 promoting the C7 Olympics and C7 Games channels ("**the C7 Olympic channels**") on the Austar and Foxtel Networks. These channels were made available to Austar and Foxtel customers for an additional charge. A copy of those viewing guides are attached at **Annexure A** and **Annexure B**.
- 4) The promotion was taken up by approximately 46,000 Austar customers, including 3000 new subscribers, and approximately 102,000 Foxtel customers.
- 5) Advertisements in the viewing guide, alongside the viewing times for C7 Olympics and C7 Games channels, state, inter alia, that:

"Timms and her Opals will be at it again come Sydney 2000, with the Australian mens team, headed by Andrew Gaze and Luc Longley, also medal contenders. See every one of their games **live**."

("the Representation")

- 6) Of the 16 games of Olympic basketball involving the Australian mens or women's teams, C7 telecast 6 of those games live in whole and further 4 games live in part on the C7 Olympic channels.
- 7) On 24 October the Commission wrote to C7 alerting it to the Commission's view that in making the Representation C7 engaged in misleading or deceptive conduct.
- 8) After being informed by the Commission of the possible contravention of sections 52 of the Trade Practices Act in respect of the Representation, C7 has provided full cooperation with the Commission in the provision of these undertakings, designed to remedy any breach of the Act.

ADMISSIONS

- 9) C7 accepts that the Representation may have led consumers to believe that every Australian basketball game at the Olympics could be seen live on the C7 Olympics channels and that in making the Representation C7 may have breached section 52 of the Act.

COMMENCEMENT OF UNDERTAKING

10) This undertaking comes into effect when:

- (i) the undertaking is executed by C7; and
- (ii) the Commission accepts the undertaking so executed.

UNDERTAKINGS

11) C7 gives the following undertakings to the Commission for the purposes of section 87B of the *Trade Practices Act 1974*:-

Conduct Undertakings

- i) C7 will use its best endeavours to ensure that neither it nor any of its servants or agents cause to be published or broadcast any representation which is false or misleading in relation to the programming of C7 channels;
- ii) C7 will within one month of the acceptance of these undertakings implement a procedure to ensure that any future promotional advertising material published by C7 is subject to legal clearance before publication;

Compensation (Corrective Advertising Option)

- iii) C7 will, from the date of acceptance of these undertakings, establish a 1800 number for Austar & Foxtel viewers to register complaints about the standard of Australian basketball games coverage on C7's Olympics channels and to advise the Commission of that number;
- iv) C7 will, within three weeks of acceptance of these undertakings, offer \$20 compensation to customers who have complained to C7, Austar, Foxtel or the Seven Network that were misled by the representation. The offer is to be made in terms of the letter attached to these undertakings and marked **Annexure C**;
- v) C7 will within three months of the acceptance of these undertakings advise the Commission of the number of Austar and Foxtel customers who have been compensated by C7 in accordance with these undertakings;
- vi) C7 will within three weeks of acceptance of these undertakings make a donation to Olympic Aid of \$15,000;

Trade Practices Compliance Program

vii) C7 will develop and implement a Trade Practices Compliance Program in accordance with Australian Standard for Compliance Programs AS3806-1998. The Program will:

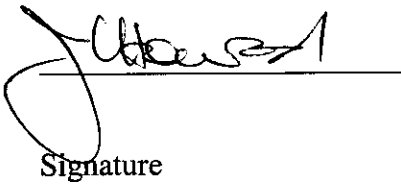
- (a) be provided to the Commission within 3 months of the acceptance of these undertakings for approval and any reasonable amendments as requested by the Commission to be implemented;
- (b) appoint a senior manager as Trade Practices Compliance Officer to have overall responsibility for trade practices compliance;
- (c) include an education program calculated to ensure that relevant staff are aware of the provisions of the Act; and
- (d) include a mechanism for independent expert review of the Program twelve months from implementation.

ACKNOWLEDGMENTS

- 12) C7 acknowledges the Commission's right to make this undertaking available to the public including placing it on a register, publicising it and allowing third parties to publish it.
- 13) C7 further acknowledges that the Commission may issue a media release about this undertaking and may, from time to time, publicly refer to this undertaking.
- 14) C7 acknowledges and accepts that this undertaking in no way derogates the rights and remedies available to any person arising from the conduct of C7.
- 15) C7 further acknowledges that the compliance program as in force from time to time will be held with this undertaking on the public register.

Signed on behalf of C7 PTY LTD by

JUDITH ANNE HOWARD



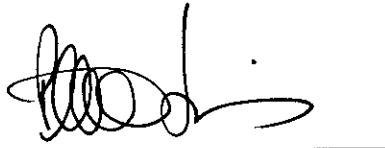
23/01/2001

Print Name (Director/Secretary)

Signature

Date

PETER JOSEPH LEWIS



23/01/2001

Print Name (Director/Secretary)

Signature

Date

Print Name (Director/Secretary)

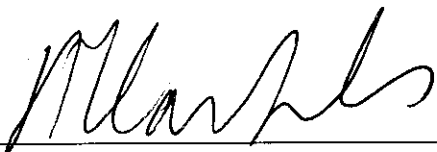
Signature

Date

Company Seal

Date

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



(Professor Allan Fels)

Chairperson

This 7 day of July 2000

Annexure A

NON-STOP 24 HOURS PER

BASKETBALL

Michelle Timms does not believe in quitting. You can foul her hard, knock her to the floor and hound and harass her all day, just don't expect her to quit. As the Australian Opals progressed through the rounds of the 1996 Olympic Games tournament, Timms was the heartbeat of the team; the heartbeat of a bronze medal - Australia's first Olympic basketball medal. Timms and her Opals will be at it again come Sydney 2000, with the Australian men's team, headed by Andrew Gaze and Luc Longley, also medal contenders. See every one of their games LIVE.

Channel 35 - 07 Olympics

Channel 36 - 07 Games

day 1

- 08:30 HOCKEY W Prelim Korea v Argentine LIVE
- 10:00 BASKETBALL W Prelim Poland v New Zealand LIVE
- 11:00 SHOOTING W Air Final LIVE
- 11:30 BASKETBALL W Prelim Brazil v Slovakia LIVE
- 12:00 BEACH VOLLEYBALL W Elm
- 13:00 HOCKEY M Prelim Netherlands v Great Britain LIVE
- 15:30 HOCKEY M Prelim Spain v Korea LIVE
- 17:00 SHOOTING M Air Final
- 17:30 FOOTBALL W Prelim Australia v Sweden LIVE
- 20:00 FOOTBALL M Prelim Australia v Nigeria LIVE
- 22:00 HANDBALL M Prelim Australia v Sweden LIVE
- 23:30 SWIMMING Day 1 Finals
- 01:00 Liz Ellis presents the best of Day 1 including Basketball, Boxing, Cycling and Water Polo.

day 2

- 08:30 ROWING WM Sculls Coxless Pairs LIVE
- 12:00 EQUESTRIAN Dressage
- 12:30 BOXING/WATERPOLO/SHOOTING
- 14:00 CANOE/KAYAK
- 15:30 EQUESTRIAN/BOXING
- 16:00 CANOE/KAYAK /SLALOM
- 18:00 WATER POLO W Prelim USA v Canada LIVE
- 19:30 BASEBALL Prelims Australia v Netherlands LIVE
- 22:00 SOFTBALL Prelim Australia v New Zealand
- 23:30 SWIMMING Day 2 Finals
- 01:00 Liz Ellis presents the best of Day 2 including Hockey, Basketball, Cycling, Water Polo and Sailing.

day 3

- 08:30 EQUESTRIAN Cross Country LIVE
- 10:30 HANDBALL M Prelim Australia v Spain LIVE
- 10:30 HOCKEY W Prelim Great Britain v Argentina LIVE
- 20:00 SOFTBALL W Prelim Australia v Italy LIVE
- 21:30 BOXING/VOLLEYBALL
- 22:00 SWIMMING Day 3 Finals
- 01:00 Liz Ellis presents the best of Day 3 including Baseball, Water Polo, Canoe/Kayak, Basketball, Sailing and Boxing.

day 1

- 08:30 OPENING CEREMONY Highlights
- 10:00 VOLLEYBALL/BEACH VOLLEYBALL/BOXING
- 14:30 WEIGHTLIFTING 56kg B Group
- 16:30 BOXING Bantam/Welter
- 18:00 WATER POLO W Prelim Canada v Russia LIVE
- 18:30 BASKETBALL W Prelim Cuba v Russia LIVE
- 21:00 BOXING Welter Weight
- 22:00 FOOTBALL M Prelim Italy v Honduras
- 00:00 GYMNASTICS W Qualifying
- 01:30 Paul Rice presents the best from Day 1 including Wrestling, Beach Volleyball, Weightlifting, Volleyball and Football.

day 2

- 08:00 BEACH VOLLEYBALL M Prelim
- 10:00 EQUESTRIAN 3 Day - Dressage Day 2
- 10:30 WEIGHTLIFTING M 62 kg Group B
- 12:30 BASEBALL Prelim USA v Japan
- 15:00 WEIGHTLIFTING W 48 kg Group A
- 16:30 BASKETBALL M Prelim Yugoslavia v Russia
- 17:30 FOOTBALL W Prelim USA v China LIVE
- 19:30 BOXING Bantam
- 20:00 FOOTBALL M Prelim Brazil v Russia LIVE
- 22:00 BASKETBALL M Prelim China v USA
- 23:30 GYMNASTICS W Qualifying
- 01:00 Paul Rice presents the best of Day 2 including Wrestling, Boxing,

day 3

- 08:00 BEACH VOLLEYBALL W Prelim
- 10:30 HOCKEY M Prelim Netherlands v Malaysia
- 12:30 VOLLEYBALL W Prelim
- 14:30 BOXING/WRESTLING
- 16:30 BASKETBALL W Prelim USA v Cuba
- 18:00 WATER POLO W Prelim Russia v USA
- 19:00 VOLLEYBALL W Prelim
- 20:30 BASEBALL Prelim Japan v Netherlands
- 22:00 GYMNASTICS M Team Final
- 01:00 Paul Rice presents the best of Day 3 including Wrestling, Boxing,



Annexure B

FUXTEL NON-STOP 24 HOURS PER



day 1

day 2

day 3

Margie Timms does not believe in quitting. You can foul her hard, knock her to the floor and hound and harass her all day, just don't expect her to quit. As the Australian Opals progressed through the rounds of the 1996 Olympic Games tournament,

Timms was the heartbeat of the team; the heartbeat of a bronze medal - Australia's first Olympic basketball medal. Timms and her Opals will be at it again come Sydney 2000, with the Australian men's team, headed by Andrew Gaze and Luc Longley, also medal contenders. See every one of their games LIVE.



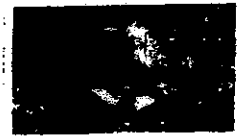
Channel 31 (Satellite) • C7 Olympics

- 08:30 HOCKEY
W/ Korea v Argentina
LIVE
- 10:00 BASKETBALL
W/ Poland v New Zealand
LIVE
- 11:00 SHOOTING
W Air Final
LIVE
- 11:30 BASKETBALL
W/ Brazil v Slovakia
LIVE
- 13:00 BEACH VOLLEYBALL
W/ Erm
LIVE
- 13:30 HOCKEY
M/ Netherlands v Great Britain
LIVE
- 15:30 HOCKEY
M/ Spain v Korea
LIVE
- 17:00 SHOOTING
M Air Final
LIVE
- 17:30 FOOTBALL
W/ Australia v Sweden
LIVE
- 20:00 FOOTBALL
M/ Australia v Nigeria
LIVE
- 22:00 HANDBALL
W/ Australia v Sweden
LIVE
- 23:30 SWIMMING
Day 1 Final
01:00 LIZ ELLIS PRESENTS THE BEST OF DAY 1 INCLUDING BASKETBALL, BOXING, CYCLING AND WATER POLO.

Channel 41 (Cable) Channel 32 (Satellite) • C7 Games

- 08:30 OPENING CEREMONY
Highlights
- 10:00 VOLLEYBALL/BEACH VOLLEYBALL/EQUESTRIAN/BOXING
- 14:30 WEIGHTLIFTING
56kg B Group
LIVE
- 16:30 BOXING
Bantam/Weber
- 18:00 WATER POLO
M/ Canada v Russia
LIVE
- 19:30 BASKETBALL
W/ Cuba v Russia
LIVE
- 21:00 BOXING
Welter Weight
LIVE
- 22:00 FOOTBALL
M/ Italy v Honduras
- 00:00 GYMNASTICS
W Qualifying
01:30 PAUL ROOS PRESENTS THE BEST FROM DAY 1 INCLUDING TRIATHLON, BEACH VOLLEYBALL, WEIGHTLIFTING, VOLLEYBALL AND FOOTBALL.

- 08:30 ROWING
W/M Scull /Coxless Pair
LIVE
- 12:00 EQUESTRIAN
Dressage
- 13:00 BOXING/WATERPOLO/SHOOTING
- 14:00 CANOE/KAYAK
LIVE
- 15:30 EQUESTRIAN/BOXING
- 16:00 CANOE/KAYAK /SLALOM
LIVE
- 18:00 WATER POLO
W/ USA v Canada
LIVE
- 19:30 BASEBALL
Australia v Netherlands
LIVE
- 22:00 SOFTBALL
Australia v New Zealand
- 23:30 SWIMMING
Day 2 Final
01:30 LIZ ELLIS PRESENTS THE BEST OF DAY 2 INCLUDING HOCKEY, BASKETBALL, CYCLING, WATER POLO AND SAILING.



- 09:30 EQUESTRIAN
Cross Country
LIVE
- 16:30 HANDBALL
M/ Australia v Spain
LIVE
- 18:30 HOCKEY
W/ Great Britain v Argentina
LIVE
- 20:00 SOFTBALL
W/ Australia v Italy
LIVE
- 21:30 BOXING/VOLLEYBALL
- 22:00 SWIMMING
Day 3 Final
01:00 LIZ ELLIS PRESENTS THE BEST OF DAY 3 INCLUDING BASEBALL, WATER POLO, CANOE/KAYAK BASKETBALL, SAILING AND BOXING.



- 09:00 BEACH VOLLEYBALL
M Prelim
LIVE
- 10:00 EQUESTRIAN
3 Day - Dressage Day 2
LIVE
- 10:30 WEIGHTLIFTING
M 62 kg Group B
LIVE
- 12:30 BASEBALL
USA v Japan
LIVE
- 15:00 WEIGHTLIFTING
W 48 kg Group A
LIVE
- 16:30 BASKETBALL
M/ Yugoslavia v Russia
- 17:30 FOOTBALL
M/ USA v China
LIVE
- 19:30 BOXING
Bantam
LIVE
- 20:00 FOOTBALL
M/ Brazil v Russia
LIVE
- 22:00 BASKETBALL
M/ China v USA
LIVE
- 23:30 GYMNASTICS
W Qualifying
01:00 PAUL ROOS PRESENTS THE BEST OF DAY 2 INCLUDING TRIATHLON, BOXING, WEIGHTLIFTING, SHOOTING AND FOOTBALL.

- 09:00 BEACH VOLLEYBALL
W Prelim
LIVE
- 10:30 HOCKEY
M/ Netherlands v Malaysia
LIVE
- 12:30 VOLLEYBALL
W Prelim
LIVE
- 14:30 BOXING/WEIGHTLIFTING
- 16:30 BASKETBALL
USA v Cuba
LIVE
- 18:00 WATER POLO
W/ Russia v USA
LIVE
- 19:30 VOLLEYBALL
W Prelim
LIVE
- 20:30 BASEBALL
Japan v Netherlands
LIVE
- 23:00 GYMNASTICS
M Team Final
01:00 PAUL ROOS PRESENTS THE BEST OF DAY 3 INCLUDING BOXING, ROWING, WEIGHTLIFTING, SAILING AND HOCKEY.

Annexure C – Offer of Compensation & Apology

<Insert C7 Letterhead>

<Insert Date>

<Insert Customers Details>

Dear <insert customers name>

Our Apologies

During the Sydney Olympic games you subscribed to the C7 Olympics and C7 Games channels. Since then you have contacted us about the coverage of live Australian basketball games on those channels.

It has been drawn to our attention that some customers may have subscribed to the C7 Olympics and C7 Games channels because of representations contained in the <Austar or Foxtel> viewing guide that you could see every one of the Australian teams basketball games live on C7 Olympics or C7 Games channels.

These matters have been drawn to our attention by the Australian Competition and Consumer Commission (ACCC) who raised concerns over our representation that we would show all Australian basketball games live. In fact we only showed 6 of the 16 games in full live and a further 4 in part. The ACCC raised concerns that our representation may have been misleading, deceptive or false. We have acknowledged that the advertisement may have raised concerns in respect of the consumer protection provisions of the Trade Practices Act.

In order to fix the problem, we have agreed to offer consumers who were misled by that representation or dissatisfied with our live coverage of the Australian basketball games a refund of \$20 which is enclosed.

We apologise for this mistake. Should you have any questions relating to the matters above please feel free to contact me on <insert number>.

Yours sincerely

<Insert name of Manager>
<position>