

**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**

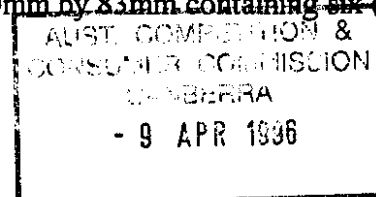
Between March and September 1995, St. John Ambulance Australia W.A. Ambulance Service Inc. ("St John") was involved in the promotion of a 'Phone Saver' offer to its members. This offer involved telecommunications reselling services, provided by IBM Australia Limited ("IBM").

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.

St John Ambulance states 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 ...*  
EXECUTIVE DIRECTOR

This 29<sup>th</sup> day of March 1996.

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

*Allen ...*  
CHAIRMAN

This 3 day of April 1996.