



**UNDERTAKING**  
**PURSUANT TO SECTION 87B OF THE TRADE PRACTICES ACT**

Given by: Hilton Publications Pty Ltd and Alexander McKenzie

In favour of the Trade Practices Commission

Whereas:

- A. The Hilton Publications Pty Ltd and Alexander McKenzie are engaged in the business of offering and providing advertising services to consumers.
- B. The Commission has instituted legal proceedings out of the Federal Court of Australia (VG No 163 of 1994) against Hilton Publications Pty Ltd and Alexander McKenzie ('the Respondents') alleging the Respondents have contravened sections 52 (1), 53 (bb) and 64 (2A) of the Trade Practices Act in the course of their business activities as detailed in the application filed in the legal proceeding ('the claims').
- C. The parties have agreed to settle and compromise the claims of the terms herein and on the terms embodied in a consent order agreed to be filed with the Federal Court of Australia pursuant to Order 35 Rule 10 of the Federal Court Rules.

**The parties hereby agree as follows:**

1. The Respondents whether by themselves, their servants or agents or howsoever will:
  - (a) when sending documentation as part of the attempted selling or attempted sale of advertising in any publication of the first Respondent, or any other person, entitle such documentation 'Advertising Proposal' and prominently and clearly state on the face of the documentation that no obligation to pay for advertising has arisen;
  - (b) on having reached an agreement during a telephone conversation with a customer, that the customer will place advertising in a publication of the first Respondent, or any other person, that thereafter the full and uninterrupted remainder of the conversation will be recorded in a manner permitted by law and the following format will be adopted by the Respondents in respect of such conversation -

"The beep you hear is a Telecom recording apparatus we use to record these details for our files. I am going to confirm the details of the advertisement you have booked in our magazine [date of conversation then to be stated]".

Details of the copy of the advertisement will then be read back to the customer.

The customer will then be asked, "Are those details correct?" and the customer's response will be received.

The following matters will then be confirmed with the customer:

- The title of the magazine;
- The description and issue of the magazine;
- The price of the advertisement; and
- The size of the advertisement.

The customer will then be asked to spell their name and will be asked to forward a signed order or to provide an order number or reference number for the booking of the advertisement. The customer will then be advised of the reference number of the first Respondent and the date and time the advertisement was booked.

The customer will then be advised that an invoice in confirmation of the booking will be sent in writing from Hilton Publications or Esquire Publications (whichever is applicable) and that after the advertisement has been run in the magazine, the customer will receive a copy of the publication.

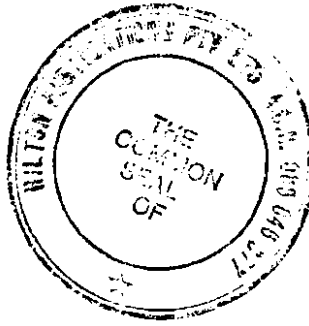
- (c) retain all tape recordings made in compliance with paragraph (b) for a minimum period of seven years and to make such tape recordings available for inspection by the Applicant upon request.

2. The Respondents agree to inform persons of details of the distribution of the magazine in which advertising is being sold as part of the authorisation for the advertising; such details of the distribution to include:

- (a) the minimum number of the magazine that will be put into circulation for distribution; and
- (b) the minimum number of addressees to whom the magazine will be delivered.

Dated:

The Common Seal of  
Hilton Publications Pty Ltd  
was hereunto affixed  
in accordance with its  
Articles of Association  
in the presence of:



*Alan J. M. H.*  
.....

*[Signature]*  
.....

Executed by:

*[Signature]*  
.....  
Alexander McKenzie

Executed by:

*[Signature]*  
.....

for and on behalf of the  
Trade Practices Commission

6/9/94