

**IN THE MATTER OF
THE FAIR TRADING ACT**

THIS UNDERTAKING is made pursuant to Section 152 of the Fair Trading Act.

BY:

CALGARY HERALD GROUP INC. o/a CALGARY HERALD
215 - 16 Street S.E. Calgary, Alberta T2E 7P5

(hereinafter called the "Herald")

TO:

the **DIRECTOR OF FAIR TRADING,**

(hereinafter called the "Director")

WHEREAS:

- (A) It has been alleged that the Herald is a supplier pursuant to the Fair Trading Act and that the Herald supplied goods to _____, through a negative option practice in violation of the Fair Trading Act;
- (B) The Director asserts that he has reason to believe that the acts or practices of the Herald described in recital (A) constitute a breach of the Fair Trading Act;
- (C) The Herald disputes the allegations but has indicated a willingness to provide to the Director the within Undertaking;
- (D) The Herald acknowledges that it has been advised that negative option practices are not permitted under the Fair Trading Act of Alberta.

NOW THEREFORE THIS UNDERTAKING WITNESSES THAT:

- 1. The Herald will, to the best of its ability, ensure that all of its sales agents, representatives, officers, employees, representatives and franchisees, involved in the marketing of newspapers, are familiar with the contents of this Undertaking and are provided with direction regarding the requirements of Alberta's Fair Trading Act.
- 2. With respect to Mr. _____ allegation, the Herald will undertake to take steps to:
 - a. educate and inform telephone solicitors and verifiers selling on behalf of the Herald of the need to follow telephone scripts provided to them by the Herald and, in particular, that aspect of the script which informs subscribers that a provision of their

subscription agreement is that newspapers will continue to be delivered at the completion of the promotion phase of the program;

- b. maintain tape recordings of telephone purchases for a reasonable period of time (as long as the subscriber has not objected to the telephone call being tape-recorded); and
 - c. communicate to new subscribers, in writing, confirming the provision of the subscription agreement that newspapers will continue to be delivered at the completion of the promotional phase of the program (if applicable).
3. This Undertaking will be binding upon the Herald and its successors and assigns unless:
- a. terminated by the Director or varied with the consent of the Herald;
 - b. varied by an Order of the Judge of the Court of Queen's Bench where the Judge is satisfied that the circumstances warrant varying the provisions of the Undertaking; or
 - c. terminated by an Order of a Judge of the Court of Queen's Bench where the Judge is satisfied that the act or practice that the Herald has undertaken to refrain from engaging in was not unfair;
 - i. however, in any such case, the termination or variance does not invalidate anything done under this Undertaking prior to termination or variance.
4. The Herald acknowledges that the Director may, upon breach by the Herald of any term of the Undertaking, institute such proceedings and take such action under the Fair Trading Act, as he may consider necessary.
5. The Herald acknowledges that it was advised by Alberta Government Services, and is aware that it is entitled to seek independent professional advice regarding the signing of this Undertaking, and the Herald acknowledges that it is entering into this Undertaking voluntarily.

IN WITNESS WHEREOF the Herald has on the 20th day of March, 2002, caused its common seal to be hereunto affixed and attested by the signatures of its proper officers duly authorized in that behalf.

CALGARY HERALD GROUP INC.

Per:  _____

ACCEPTED by the Director of Fair Trading this 30 day of April, 2002.

 _____
DIRECTOR OF FAIR TRADING