

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION ACT 1989

Undertaking to the Australian Securities and Investments Commission  
given for the purposes of section 93AA

by

Suncorp Metway Insurance Limited ACN 075 695 966

**1. Background**

- 1.1 During May and June 1999 four billboard advertisements were placed by Suncorp-Metway Insurance Limited ("Suncorp Metway") in New South Wales, one each above or adjacent to: the Pacific Highway at Grafton, the corner of Lismore and Ballina Roads at Ballina, the M4 Freeway at Rose Hill, Sydney, and Epping Road at Lane Cove, Sydney.
- 1.2 The billboards were approximately 3 metres high and 12 metres long. The primary wording of the advertisements, printed in large point size, was:

"Save up to \$115 on your home and car insurance" ("the primary message").
- 1.3 At the foot of the advertisements the following further wording appeared, in a small point size:

"Savings based on average Suncorp-Metway insurance premiums. 5% discount applies to 3 or more insurance covers. Discounts to NSW customers only. Conditions apply. Suncorp-Metway Insurance Limited A.C.N. 075 695 966" ("the footnote message").
- 1.4 ASIC considers that the billboard advertisements placed by Suncorp Metway were misleading or deceptive or likely to mislead or deceive in breach of section 12DA of the Australian Securities and Investments Commission Act 1989 ("the Act") in that:
  - (a) consumers would understand from the primary message that savings of up to \$115 were available by taking home and car insurance with

Suncorp-Metway, regardless of with which company or companies they had their current insurance arrangements, whereas the promoted savings were calculated by reference to Suncorp-Metway's average premiums only;

- (b) the primary message represented that the advertised savings would be available in relation to two insurance policies, one for home insurance and one for car insurance, whereas consumers were obliged to take out three insurance policies to qualify for the savings;
- (c) it was not disclosed that for consumers to qualify for the maximum advertised saving of \$115 they were required to take out home contents insurance with Suncorp-Metway;
- (d) it was not disclosed that Compulsory Third Party car insurance was excluded from Suncorp-Metway's promotional offer.

1.5 ASIC notes that the footnote message included advice which accurately qualified the representations referred to in 1.4(a) and 1.4(b). ASIC considers, however, that this accurate advice was not available to the great majority of consumers exposed to the advertisement, in that the footnote message would have been unreadable to them. ASIC considers that most consumers confronted with the advertisement would be motorists, who would either not register that the footnote message existed, or would have insufficient time to read and absorb its information. Factors which contributed to ASIC arriving at its opinion were: the small print size used in the footnote message; the minimum distances at which this message was likely to be read; the wordiness of the footnote message, and the fact that the lowest speed limit on relevant roadways was 80 kilometres per hour.

1.6. ASIC considers that advice given by Suncorp-Metway call centre consultants in relation to the promotional offer was misleading or deceptive or likely to mislead or deceive in breach of section 12DA of the Act. In the course of inquiries an ASIC officer contacted Suncorp-Metway call centre consultants and

sought advice about the offer promoted on Suncorp-Metway's billboards. The call centre consultants failed to advise that Compulsory Third Party insurance was excluded from Suncorp-Metway's promotional offer.

- 1.7 ASIC considers that advice given at Suncorp-Metway's Internet website was misleading or deceptive or likely to mislead or deceive in breach of section 12DA of the Act. In the course of inquiries an ASIC officer visited the Suncorp-Metway Internet website and observed it to advise that for consumers to qualify for the advertised savings they would be obliged to take out 4 insurance policies with Suncorp-Metway, whereas the obligation was actually to take out 3 insurance policies;
- 1.8 ASIC considers that a Suncorp Metway print advertisement which appeared in newspapers published in New South Wales was likely to mislead consumers, in breach of section 12DA of the Act in that the advertisement promoted savings of "up to \$115" and advised that these were "based on average premiums". ASIC considers it likely that consumers would understand this qualification to refer to the average of all comparable premiums charged in the marketplace, whereas Suncorp Metway's advertising claims were based on the average of its own premiums alone.
- 1.9 On 11 June 1999, ASIC advised Suncorp Metway of the concerns set out above. ASIC acknowledges that Suncorp Metway's responses to these concerns have been prompt and cooperative, involving removal of the billboards at issue, amendment of the Suncorp Metway website, and further training of call centre staff.

## **2. Undertakings**

Suncorp Metway Insurance Limited ("Suncorp Metway") undertakes for the purposes of section 12AA of the ASIC Act that:

- 2.1 It will not repeat the billboard advertisement described at clauses 1.2 and 1.3 of the Background to this undertaking;

- 2.2 It will not promote any product by way of billboard advertisement without ensuring that any material disclaimer and/or significant footnote advice is clear and readable;
- 2.3 It will not promote any product in any outdoor advertising context (for example: bus shelter advertising, roadside seat advertising, billboard advertising, taxi display advertising and bus display advertising) without ensuring that all disclaimers and/or significant footnote advice are clear and readable;
- 2.4 It will, in any print advertisement which claims that particular savings may be available to consumers, clearly and legibly state the basis upon which the claims are made;
- 2.5 It will ensure that each of its advertisements will be reviewed for compliance with the Act and undertakings 2.2, 2.3 and 2.4, by a member of the Suncorp Metway legal department, or an external lawyer retained by Suncorp-Metway. In carrying out such a review the member of the Suncorp Metway legal department or external lawyer retained by Suncorp Metway will assess the overall impression likely to be created by the advertisement including by reference to:
- (a) the use of colour, boldness, text positioning and graphics,
  - (b) the prominence and boldness of the primary message,
  - (c) the general layout of the advertisement,
  - (d) the general placement of the advertisement,
  - (e) any other relevant characteristics of the advertisement or the advertisement's audience.
- 2.6 It will take all reasonable steps to ensure that persons employed by Suncorp-Metway (whether as employees, agents or contractors) and whose responsibilities include the preparation or placement of advertising, are aware of Suncorp Metway's obligations under these undertakings.

2.7 It will cause a hyperlink connection to be established on the home page of the Suncorp Metway Internet website, allowing consumers to visit a page to be prepared by ASIC, in consultation with Suncorp-Metway, and placed on the ASIC Internet website, for the purpose of advising consumers about issues relevant to the purchase of financial products, with a particular emphasis on issues relevant to electronic commerce. This hyperlink connection will remain in place for no less than 12 months after ASIC has advised Suncorp-Metway that the preparation of the ASIC advice page is completed. The ASIC advice page may be changed by ASIC from time to time, in consultation with Suncorp-Metway.

### 3. Acknowledgments

Suncorp Metway acknowledges that ASIC:

- 3.1 May from time to time publicly refer to this undertaking;
- 3.2 May issue a media release on execution of this undertaking referring to its terms and the concerns of ASIC which led to its execution;
- 3.3 Will place a copy of the executed undertaking on a Public Register;

Further, Suncorp Metway acknowledges that:

- 3.4 This undertaking in no way derogates from the rights and remedies available to any other person arising from any conduct described in this undertaking;
- 3.5 This undertaking has no operative force until accepted by ASIC.

EXECUTED on the *twenty fourth* day of *August* 1999  
Signed for and on behalf of  
Suncorp Metway Insurance Limited (ACN 075 695 966)

*[Handwritten Signature]*  
Signature of Authorised Person                      Signature of Authorised Person

*GENERAL MANAGER INSURANCE*  
Office held                                              Office held

*ANDREW BYRNE*  
Name of Authorised Person                      Name of Authorised Person  
(block letters)                                      (block letters)

ACCEPTED BY THE AUSTRALIAN SECURITIES AND INVESTMENTS  
COMMISSION PURSUANT TO ASIC ACT S.93AA BY ITS DULY  
AUTHORISED DELEGATE:

*[Handwritten Signature]*  
*REGIONAL GENERAL*  
Office held *counsel*  
*JAN REDFERN*  
Name of Delegate  
*30 August, 1999*

