

## **COMPETITION AND CONSUMER ACT 2010**

Undertaking to the Australian Competition and Consumer Commission given for the purposes of section 87B of the *Competition and Consumer Act 2010*

by

**George Weston Foods Limited**

ACN 008 429 632

### **PERSONS GIVING THIS UNDERTAKING**

1. This Undertaking (**Undertaking**) is given to the Australian Competition and Consumer Commission (**the ACCC**) by George Weston Foods Limited (ACN 008 429 632) (**George Weston**) for the purposes of section 87B of the *Competition and Consumer Act 2010* (**the Act**).

### **BACKGROUND**

2. George Weston is incorporated under the *Corporations Act 2001* and is registered in the Australian Capital Territory.
3. George Weston is a food manufacturer whose range of products includes packaged smallgoods and ham products marketed under the KR Castlemaine brand. It supplies KR Castlemaine products to Woolworths, Coles and independent supermarkets in Australia.
4. George Weston acquired the KR Castlemaine brand in 2008. From 2008 some KR Castlemaine pork products included the prominent statement 'bred free range' on its packaging and labelling. The prominent statement was also made on the website [www.krcastlemaine.com.au](http://www.krcastlemaine.com.au).
5. The ACCC considers that the reference to 'bred free range' in the promotion of KR Castlemaine pork products is likely to give consumers the overall impression that the pigs from which the products are made are farmed according to free range methods, which include at a minimum, that pigs are kept in an outdoor paddock and are able to move about freely on most ordinary days.
6. In fact, pigs from which the products are made are born and initially raised in huts on paddocks where the adult breeding sow lives in open spaces able to move about freely on most ordinary days. At the age of between 21-28 days, the pigs are then moved into straw-based shelters where they live until slaughter.
7. The ACCC considers George Weston's use of the phrase 'bred free range' to be inconsistent with consumers' understanding of those words and may therefore be false or misleading or deceptive in contravention of sections 18 and 29(1)(a) of the Australian Consumer Law.

## **CONTRAVENTION OF THE ACT**

8. George Weston acknowledges that the conduct described at paragraphs 2 to 7 may have contravened sections 18 and 29(1)(a) of the Australian Consumer Law contained in Schedule 2 of the Act.
9. Upon being made aware of the ACCC's concerns, George Weston:
  - 9.1. Agreed to cease using the phrase 'bred free range' on affected KR Castlemaine pork products; and
  - 9.2. Agreed to resolve the ACCC's concerns by the provision of this undertaking under section 87B of the Act.

## **COMMENCEMENT OF UNDERTAKING**

10. This Undertaking comes into effect when:
  - 10.1. the Undertaking is executed by George Weston; and
  - 10.2. the ACCC accepts the Undertaking so executed.
11. Upon the commencement of this Undertaking, George Weston undertakes to assume the obligations set out in paragraphs 12, 13, 14 and 15.

## **UNDERTAKINGS**

### ***Future Representations***

12. George Weston undertakes for the purposes of section 87B of the Act that
  - 12.1. in relation to the making of any representation by its product labelling, for a period of 3 years commencing four months after the date of this Undertaking coming into effect; and
  - 12.2. in relation to the making of any representation by any means other than its product labelling, including by any website and other promotional or marketing material (including any material displayed at point of sale), for a period of 3 years commencing on the date of this Undertaking coming into effect,

it will not, in trade or commerce, including by the use of the statement 'bred free range', make any representation to the effect that pigs used for the production of any pork product supplied by George Weston are born and raised, for the duration of their lives, in an environment where the pigs are able to move about freely in an outdoor paddock on most ordinary days, in circumstances when this is not the case.

### **Competition and Consumer Act Compliance Program**

13. George Weston undertakes for the purposes of section 87B of the Act that it will:

13.1. implement a Competition and Consumer Act Compliance Program (**the Compliance Program**) to ensure it includes at a minimum, the particular provisions as set out in **Annexure A** for persons involved in George Weston's business, being a program designed to:

13.1.1. minimise George Weston's risk of breaches of the following provisions of the ACL:

- (i) Part 2-1 (Misleading or deceptive conduct), in particular section 18; and
- (ii) Part 3-1, Division 1 (False or misleading representations), in particular section 29;

13.1.2. ensure George Weston is aware of its responsibilities and obligations in relation to the above provisions of the ACL, including provisions which define the conduct proscribed in the above stated sections;

13.2 deliver practical Competition and Consumer Act Compliance training to all current Directors and senior managers within three months of the date of this Undertaking; and

13.3 provide, at its own expense, a copy of any documents required by the ACCC in accordance with **Annexure A**.

### **Corrective Notice**

14. George Weston undertakes, for the purposes of section 87B of the Act, that it will, at its own expense and within seven (7) days of the date of this Undertaking coming into effect, publish or cause to be published, on the website [www.krcastlemaine.com.au](http://www.krcastlemaine.com.au) for the period of sixty (60) days of the date of this Undertaking coming into effect a clickable banner link in the terms of **Annexure C** to this Undertaking and to the following specifications (**Banner Link**):

Minimum size	Comprise the entire width of the top 20% of the initial screen size
Banner	Minimum 14 point sans serif typeface, centred, reversed in a black box measuring minimum 8 mm in height
Headline	Minimum 12 point, 100% black, taking up 20% of the entire notice
Body copy	Serif typeface, left justified, at least 10 point
Margin	As needed
Border	100% black, min 2 point

Logos	At least 20 mm
Baseline	Minimum 7 point

15. George Weston undertakes that 100% of the area of the Banner Link forms a hot link to a corrective notice maintained for the period of sixty (60) days of the date of this Undertaking coming into effect, in the terms of Annexure B to this Undertaking and to the following specifications:

Content	Indexable by a web search engine
Minimum size	Full screen
Banner	Minimum 14 point sans serif typeface, centred, reversed in a black box measuring minimum 8 mm in height
Headline	Minimum 12 point, 100% black, taking up 20% of the entire notice
Body copy	Serif typeface, left justified, at least 10 point
Margin	As needed
Border	100% black, min 7 point
Logos	At least 40 mm
Baseline	Minimum 7 point

***Acquirers of George Weston's KR Castlemaine bacon and ham products to be made aware of this Undertaking and provided a copy of the Corrective Notice***

16. George Weston undertakes that it will, for the purposes of section 87B of the Act, within a period of 4 months of the commencement of this Undertaking, contact all retailers and distributors (as listed in confidential Annexure D) which to its knowledge have within the last 12 months acquired KR Castlemaine branded bacon and ham products from George Weston and:
- 16.1. notify them of the existence of this Undertaking; and
  - 16.2. provide them with a copy of the Corrective Notice contained in **Annexure B** of this Undertaking.

**ACKNOWLEDGEMENTS**

17. George Weston acknowledges that:
- 17.1. the ACCC will make this Undertaking publicly available including by publishing it on the ACCC's public register of section 87B Undertakings on its website;
  - 17.2. the ACCC will, from time to time, make public reference to the Undertaking including in news media statements and in ACCC publications; and

17.3. this Undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

Executed by

George Weston Limited (ACN. 008 429 632) pursuant to section 127(1) of the Corporations Act 2001.

  
.....  
Secretary/Director

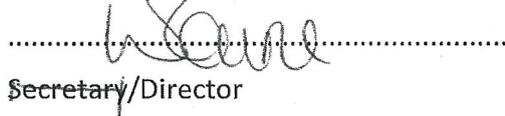
**Claire Maree Ledger**  
.....

Director

This 26th day of August 2015

OR

The Common Seal of George Weston (ACN. 008 429 632) was affixed in the presence of:

  
.....  
Secretary/Director

Lana Bone  
.....

Director

This.....day of.....2015

ACCEPTED BY THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION PURSUANT TO SECTION 87B OF THE COMPETITION AND CONSUMER ACT 2010

  
.....

Rodney Graham Sims

Chairman

This 2nd day of February 2015

## Annexure A

### COMPETITION AND CONSUMER ACT COMPLIANCE PROGRAM

George Weston Foods Limited will establish a Competition and Consumer Act Compliance Program (**Compliance Program**) which will include as a minimum the following features:

#### 1. Training

1.1. Within three months of the date of this Undertaking coming into effect, all current Directors and senior managers will attend practical training focusing on sections 18 and 29 of the Australian Consumer Law (**ACL**).

1.2. George Weston Foods Limited will ensure that the training referred to in paragraph 1.1 above is administered by a suitably qualified compliance professional or legal practitioner with expertise in consumer law. Such person may be either an external service provider or an employee of George Weston Foods Limited.

1.3. George Weston Foods Limited will provide a written statement or certificate from the trade practices professional who conducts the training referred to in paragraph 1.1 above to the Australian Competition and Consumer Commission (ACCC) within 14 days of completion of the training verifying that such training has occurred.

2. If requested by the ACCC, George Weston Foods Limited will provide, at its own expense, copies of any other documents or information in respect of matters which are the subject of the Compliance Program.

## Annexure B

### CORRECTIVE NOTICE



From 2008 George Weston Foods Limited (George Weston), trading as KR Castlemaine, made representations in relation to some of its pork products on packaging, labelling and the website [www.krcastlemaine.com.au](http://www.krcastlemaine.com.au), which included the statement 'bred free range'.

George Weston acknowledges that the statement 'bred free range' may give consumers the overall impression that the pigs are farmed over their entire lives according to free range methods which include at a minimum, that pigs are able to move about freely in an outdoor paddock on most ordinary days until slaughtered. In fact, pigs supplied by George Weston for the relevant KR Castlemaine product range are born and initially raised in huts on paddocks where the adult breeding sow lives in open spaces able to move about freely on most ordinary days. At the age of between 21-28 days they are moved into straw-based eco-shelters where they live until slaughter.

George Weston acknowledges that its production practices may be inconsistent with the overall impression of the ordinary consumer created by the words 'bred free range' and may therefore be false or misleading or deceptive in contravention of sections 18 and 29(1)(a) of the Australian Consumer Law.

Following concerns raised by the ACCC, George Weston has provided a court enforceable Undertaking to the ACCC that it will not make any representation, including by the use of the statement 'bred free range', to the effect that pigs used for the production of any of its pork products are raised, for the duration of their lives, in an environment where pigs are able to move about freely in an outdoor paddock on most ordinary days, in circumstances when this is not the case.



Australian  
Competition &  
Consumer  
Commission

*Corrective Notice placed and paid for by George Weston pursuant to an Undertaking accepted by the ACCC*

Annexure C

**CORRECTIVE NOTICE**



Click here to learn about an undertaking provided by George Weston Foods Limited regarding false, misleading or deceptive representations.



Australian  
Competition &  
Consumer  
Commission

*Corrective Notice placed and paid for by George Weston Foods Limited pursuant to an Undertaking accepted by the ACCC.*