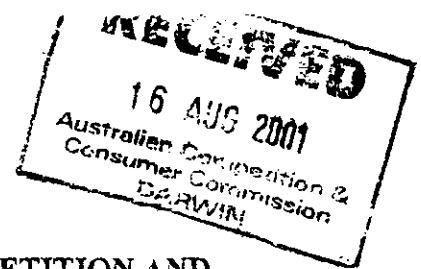


TRADE PRACTICES ACT 1974

UNDERTAKING TO THE AUSTRALIAN COMPETITION AND
CONSUMER COMMISSION UNDER SECTION
PRACTICES ACT 1974



D01/43234



BACKGROUND

1. Entee Food & Beverage Distributors & Wholesalers Pty Ltd ("Entee") is a company incorporated in the Northern Territory carrying on business and engaging in trade and commerce, inter alia, as a supplier of fruit juice in the Northern Territory.
2. It is Entee's practice to label its products by reference to and drawing on its relationship with the Northern Territory and Australia. For example:
 - "Australian Squeezed"
 - "Darwin Squeezed Orange Juice"
 - "Pure Australian Fruit"
 - "Product of Australia"
3. On or about 8 March 2001 the Australian Competition and Consumer Commission ("ACCC") received a complaint alleging that the juice contained in Entee's "Darwin Squeezed Orange Juice" did not contain juice from fresh oranges squeezed daily in Darwin as there was no juice squeezing plant at Entee's premises.
4. In correspondence between representatives of the ACCC and representatives of Entee, the ACCC expressed concerns that the labelling on Entee's juices in particular the "Darwin Squeezed Orange Juice", the 500 ml and 1.5 litre bottles of Entee Orange Juice - "Australian Squeezed":
 - may be misleading or deceptive or likely to mislead and deceive contrary to section 52 of the Trade Practice Act 1974 ("the Act"), and
 - may falsely represent that the orange juice was of a particular quality, grade or composition in contravention of s53(a) of the Act
 - may make a false or misleading representation concerning the place of origin of the juice in contravention of s53(eb) in that:

Darwin Squeezed Orange Juice

- i) the contents contained "Darwin Squeezed Orange Juice" when no orange juice had been squeezed by Entee in Darwin since June 2000.
- ii) "Entee Food and Beverages have established a modern juice squeezing plant in Darwin where we receive and squeeze fresh oranges from the best fruit growing areas in Australia" when Entee's juice squeezing plant had been dismantled in June 2000.
- iii) the product allowed consumers "to consume a locally squeezed orange juice.." when the juice had not been squeezed locally from June 2000 onwards
- iv) the ingredients were "juice from fresh oranges, reconstituted orange juice and preservative" whereas the juice also contained added sugar.
- v) the contents contained Pure Australian Fruit when between the months of January and May 2001, the orange juice can contain up to 15% 'orange juice' reconstituted from orange juice concentrate imported from Brazil.

- vi) that the contents comprise "Product of Australia" when between the months of January and May 2001 the orange juice can contain up to 15% 'orange juice' reconstituted from orange juice concentrate imported from Brazil.

500 ml bottles of Entee Orange Juice – "Australian Squeezed"

- i) that the contents comprise "Australian Squeezed" orange juice when between the months of January and July, the orange juice can contain up to 15% 'orange juice' reconstituted from orange juice concentrate imported from Brazil.
- ii) that the contents comprise "Product of Australia" when between the months January and July the orange juice can contain up to 15% 'orange juice' reconstituted from orange juice concentrate imported from Brazil.

1 litre and 1.5 litre bottles of Entee Orange Juice – "Australian Squeezed"

- i) the contents comprise "Australian Squeezed" orange juice when between the months of May and July, the orange juice can contain up to 15% 'orange juice' reconstituted from orange juice concentrate imported from Brazil.

Entee acknowledges that in engaging in this conduct Entee has contravened sections 52, 53(a) and 53(eb) of the Act.

The ACCC has agreed to accept this undertaking from Entee under section 87B of the Act.

COMMENCEMENT OF UNDERTAKINGS

This undertaking comes into effect when:

- (a) the undertaking is executed by Entee; and
- (b) the undertaking so executed is accepted by the ACCC.

UNDERTAKINGS

Compliance training

Entee undertakes that:

- all relevant staff of Entee attend a suitable Trade Practices Act training program, agreed to by the Commission, within six months of the acceptance of this undertaking; and
- education and training on the provisions of the Act will be included in induction procedures for all new relevant staff of Entee.

Acknowledgment

Entee acknowledges that:

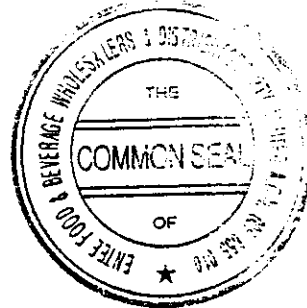
- (a) the ACCC will make this undertaking available for public inspections;
- (b) the ACCC may from time to time publicly refer to this undertaking; and

(c) this undertaking in no way derogates from rights and remedies available to any other person arising from the conduct referred to in (4) above.

Dated: 13 August 2001

THE COMMON SEAL of Entee Food & Beverage Wholesalers & Distributors Pty Ltd)

was duly affixed in accordance with)
its Articles of Association in the presence of)



David Rowlandos

Signature

DAVID ROWLANDOS

Print Name

DIRECTOR

Office Held

Signature

Print Name

Office Held

Accepted by the Australian Competition and Consumer Commission pursuant to section 87B of the *Trade Practices Act 1974*.

Michael

Chairperson

Dated: 15 August 2001