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TRADE PRACTICES ACT 1974

**UNDERTAKING TO THE AUSTRALIAN COMPETITION AND CONSUMER
COMMISSION GIVEN FOR THE PURPOSES OF SECTION 87B**

BY

**JUST SQUEEZED FRUIT JUICES PROPRIETARY LIMITED
(ACN 007 054 677)**

AND

**JUST SQUEEZED FRUIT JUICES (NSW) PTY LIMITED
(ACN 052 001 591)**

PERSONS GIVING THIS UNDERTAKING

1. This Undertaking is given to the Australian Competition and Consumer Commission (ACCC) by Just Squeezed Fruit Juices Proprietary Limited (ACN 007 054 677) of 3 Shipton Court, Campbellfield in the State of Victoria and Just Squeezed Fruit Juices (NSW) Pty Limited (ACN 052 001 591) of 54 Fitzroy Street, Marrickville in the State of New South Wales (**the Just Squeezed Group**) under section 87B of the *Trade Practices Act 1974 (the Act)*.

BACKGROUND

2. Just Squeezed Fruit Juices Proprietary Limited is incorporated in Victoria and carries on business in Australia as a manufacturer and supplier of fruit juice and other products under the brand name "just Squeezed FRUIT JUICES". Just Squeezed Fruit Juices Proprietary Limited supplies its products in Victoria and South Australia.
3. Just Squeezed Fruit Juices (NSW) Pty Limited is incorporated in New South Wales and also carries on business in Australia as a manufacturer and supplier of fruit juice and other products under the brand name "just Squeezed FRUIT JUICES". Just Squeezed Fruit Juices (NSW) Pty Limited supplies its products in New South Wales, Australian Capital Territory, Queensland and the Northern Territory.
4. The Just Squeezed Group has advised the ACCC that they manufacture and supply the following fruit juice products:
 - just Squeezed FRUIT JUICES 4L Orange Juice;
 - just Squeezed FRUIT JUICES 4L Lemon Juice;
 - just Squeezed FRUIT JUICES 2L Orange Juice;

- just Squeezed FRUIT JUICES 2L Pineapple Juice;
 - just Squeezed FRUIT JUICES 2L Apple Juice;
 - just Squeezed FRUIT JUICES 1L Orange Juice;
 - just Squeezed FRUIT JUICES 1L Pineapple Juice;
 - just Squeezed FRUIT JUICES 1L Apple & Blackcurrant Juice;
 - just Squeezed FRUIT JUICES 300ml Orange Juice;
 - just Squeezed FRUIT JUICES 300ml Tropical Fruit Juice;
 - just Squeezed FRUIT JUICES 300ml Rosso Red Orange Juice;
 - just Squeezed FRUIT JUICES 300ml Watermelon, Apple and Strawberry Juice;
 - just Squeezed FRUIT JUICES 300ml Apple Juice;
 - just Squeezed FRUIT JUICES 110ml Apple Juice;
 - just Squeezed FRUIT JUICES 110ml Orange Juice; and
 - just Squeezed FRUIT JUICES 110ml Pineapple Juice.
5. The labels on each product listed in paragraph 4 above feature pictorial representations of the fruit pertaining to the type of fruit juice described on the label and claimed to be contained in the particular product. The trade mark words “just Squeezed” are prominently displayed using letters that are of a similar size to, or larger than, the description of the products themselves. The labels all state (in varying positions and font size) that the products contain reconstituted juice.
6. Of the fruit juice products listed in paragraph 4 above, only the 4L Orange Juice, 2L Orange Juice, 1L Orange Juice, 300ml Orange Juice and 110ml Orange Juice contain fresh juice. The Just Squeezed Group has advised the ACCC that the proportion of fresh juice in their orange juice products varies from 25% to 75%, depending upon the seasonal availability of oranges at the time of manufacture.
7. The ACCC has come to the view that the Just Squeezed Group has misrepresented the contents of their fruit juice products on the labels on the products listed in paragraph 4 above and thereby engaged in false and misleading conduct in contravention of sections 52, 53(a) and 55 of the Act. In particular, the ACCC considers that the brand name “just Squeezed FRUIT JUICES” (and in particular the prominent placement of the words “just Squeezed”), together with images of fruit and words such as “Orange Juice” and “Apple Juice”, falsely represent to consumers that each product listed in paragraph 4 above:
- (a) was recently produced (that is, within days prior to a consumer purchasing the particular fruit juice product);
 - (b) was produced directly from the fruit depicted on the label and does not contain reconstituted juice; and
 - (c) was produced by squeezing the fruit depicted on the label.

8. The ACCC is of the opinion that the disclosure on the labels on each product listed in paragraph 4 above that each product contains reconstituted juice is not sufficiently prominent for consumers not to be misled by the representations.
9. The ACCC acknowledges that the Just Squeezed Group has co-operated in resolving this matter and has taken a number of steps to address the ACCC's concerns, including the commencement of a process within the Just Squeezed Group to change the brand name at issue from "just Squeezed FRUIT JUICES" to "just Delicious FRUIT JUICES".
10. In response to the ACCC's concerns, the Just Squeezed Group has offered to give this Undertaking in the terms set out below to the ACCC for the purposes of section 87B of the Act. The ACCC has agreed to accept this Undertaking under section 87B of the Act.

COMMENCEMENT OF UNDERTAKING

11. This Undertaking comes into effect when:
 - (a) the Undertaking is executed by Just Squeezed Fruit Juices Proprietary Limited and Just Squeezed Fruit Juices (NSW) Pty Limited; and
 - (b) the ACCC accepts this Undertaking so executed.

UNDERTAKINGS

Cease and Refrain From Making False and Misleading Representations

12. The Just Squeezed Group undertakes that they will cease manufacturing fruit juice products under the brand name "just Squeezed FRUIT JUICES" by 31 March 2006.
13. The Just Squeezed Group further undertakes that they will supply or offer to supply all fruit juice products manufactured by them on and after 1 April 2006 under the brand name "just Delicious FRUIT JUICES".
14. The Just Squeezed Group further undertakes that they will, for a period of 3 years from the date of this Undertaking coming into effect, whether by themselves, their directors, servants or agents or otherwise howsoever, in trade or commerce, in connection with the supply or possible supply of any fruit juice product or in connection with the promotion by any means of the supply of any fruit juice product, refrain from making:
 - (a) any representation, including on any label or promotional material, to the effect that the fruit juice product:

- (i) was recently produced (that is, within days prior to a consumer purchasing the particular fruit juice product);
 - (ii) was produced directly from the fruit depicted on the label and does not contain reconstituted juice; and
 - (iii) was produced by squeezing the fruit depicted on the label, when this is not the case, including where the product contains reconstituted juice;
- (b) any other representation:
- (i) that the fruit juice product is of a particular composition; and
 - (ii) as to the fruit juice product being of a particular nature or having particular characteristics or having been produced using a particular manufacturing process,
- when the fruit juice product is not of that composition or nature, does not have those characteristics and is not made using that manufacturing process.
15. The Just Squeezed Group further undertakes that they will, at their own expense within 30 days of the date of this Undertaking coming into effect, cause to be published a consumer notice in the form and terms of “**Annexure A**”, subject only to such variations as may be agreed to by the ACCC in writing. Such notice will be:
- (a) published once in *The Australian* newspaper;
 - (b) of a size not less than 12cm x 10cm; and
 - (c) published in the first 20 pages of the general news section of *The Australian*.

Trade Practices Compliance Program

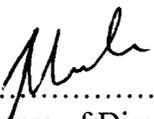
16. The Just Squeezed Group further undertakes to the ACCC that they will design and implement a Trade Practices Compliance Program covering sections 52, 53(a) and 55 of the Act in accordance with the requirements set out below and will maintain and continue to implement the Trade Practices Compliance Program for a period of 3 years from the date of the Undertaking coming into effect:
- (a) **Training** - Within 3 months of this Undertaking coming into effect, and at least once a year thereafter for the period of the Undertaking, Rui Andrade, otherwise known as Roy Andrade, and Aldo Basile, and any other employees of the Just Squeezed Group whose duties could result in them being concerned with conduct that may contravene sections 52, 53(a) and 55 of the Act, will attend practical trade practices training focusing on sections 52, 53(a) and 55 of the Act. The Just Squeezed Group:

- (i) will ensure that the training referred to in paragraph 16(a) above is administered by a suitably qualified compliance professional or legal practitioner with expertise in trade practices law;
 - (ii) will provide a written statement or certificate from the trade practices professional who conducts the training referred to in paragraph 16(a) above to the ACCC within 14 days of completion of the training verifying that such training has occurred.
- (b) **Complaints handling** – The Just Squeezed Group will:
- (i) develop procedures for recording, storing and responding to trade practices complaints within 2 months of this Undertaking coming into effect; and
 - (ii) provide the ACCC with an outline of the complaints handling system developed, within 3 months of the Undertaking coming into effect.
- (c) If requested by the ACCC, the Just Squeezed Group will provide, at their own expense, copies of any other documents or information in respect of matters which are the subject of the Compliance Program.

ACKNOWLEDGEMENTS

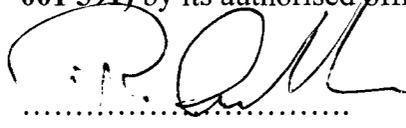
17. The Just Squeezed Group acknowledges that the ACCC will make this Undertaking available for public inspection.
18. The Just Squeezed Group further acknowledges that the ACCC will, at its discretion, from time to time publish and publicly refer to this Undertaking.
19. The Just Squeezed Group further acknowledges that this Undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

EXECUTED by **JUST SQUEEZED FRUIT JUICES PROPRIETARY LIMITED (ACN 007 054 677)** by its authorised officer pursuant to section 127(1) of the *Corporations Act 2001*:


.....
Signature of Director

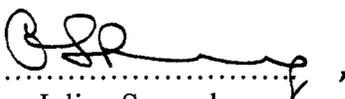
ALDO BASILE
.....
Print Name of Director

EXECUTED by **JUST SQUEEZED FRUIT JUICES (NSW) PTY LIMITED (ACN 052 001 591)** by its authorised officer pursuant to section 127(1) of the *Corporations Act 2001*:


.....
Signature of Director

RUI ANDRADE
.....
Print Name of Director

ACCEPTED by the **AUSTRALIAN COMPETITION AND CONSUMER COMMISSION** pursuant to section 87B of the *Trade Practices Act 1974*


.....
Graeme Julian Samuel
Chairman
Australian Competition and Consumer Commission

Date: **27 March 2006**

ANNEXURE A
TEXT OF CORRECTIVE NEWSPAPER NOTICE

AN APOLOGY FROM JUST SQUEEZED FRUIT JUICES

The Australian Competition and Consumer Commission (ACCC) has raised concerns regarding claims made by Just Squeezed Fruit Juices Proprietary Limited and Just Squeezed Fruit Juices (NSW) Pty Limited (**the Just Squeezed Group**) on the labelling of their “just Squeezed” range of fruit juice products (**the Products**).

The labels on the Products feature pictures of the fruit, the juice of which is claimed to be contained in the fruit juice described on the labels. The words “just Squeezed” also appear prominently on the labels on each product. Less prominently, the labels state that the Products contain reconstituted juice.

The ACCC was concerned that the labelling of the Products created the overall impression to consumers that the Products were produced within days of consumers purchasing them, were produced by squeezing the fruit depicted on the labels and that they did not contain reconstituted juice, when none of these was the case. The ACCC has taken the view that by engaging in this conduct, the Just Squeezed Group contravened sections 52, 53(a) and 55 of the *Trade Practices Act 1974*.

The Just Squeezed Group has given a court enforceable undertaking to the ACCC in response to the concerns raised by the ACCC. As part of the undertaking given to the ACCC, the Just Squeezed Group has agreed to refrain from making similar representations in the future concerning the composition of the Products and the manufacturing process used to produce the Products, and to implement and maintain a trade practices compliance program. The Just Squeezed Group has also agreed to cease manufacturing the Products under the brand name “just Squeezed FRUIT JUICES” by 31 March 2006 and to manufacture such products under the brand name “just Delicious FRUIT JUICES” from 1 April 2006.

For further information please contact Ms Rowena Wilkinson at:

Ideas That Stick Pty Ltd
Suite 1a
339 Ferrars Street
Albert Park Vic 3206
Telephone: (03) 9696 8485

This notice has been paid for by the Just Squeezed Group and placed because of the undertaking given to the ACCC by the Just Squeezed Group.