

TRADE PRACTICES ACT 1974**UNDERTAKING TO THE AUSTRALIAN COMPETITION & CONSUMER
COMMISSION GIVEN FOR THE PURPOSE OF SECTION 87B****BY****DANNON PTY LTD
(ACN 101 179 560)****PERSONS GIVING THIS UNDERTAKING**

1. This undertaking is given to the Australian Competition & Consumer Commission (ACCC) by Dannon Pty Ltd (ACN 101 179 560) (Dannon), of 29 Paris Rd, Australind, in the state of Western Australia, under section 87B of the *Trade Practices Act 1974* (TPA).

BACKGROUND

2. Dannon is incorporated in Western Australia and carries on business as an importer and distributor of Ceres fruit juice products (the Ceres fruit juice range). Dannon imports the Ceres fruit juice range from South Africa.
3. There are numerous fruit juices sold within the Ceres fruit juice range. Those fruit juices of concern include orange, pineapple, papaya, litchi, mango, cranberry & kiwi, secrets of the valley and medley of fruits.
4. During 2005 Dannon distributed the Ceres range to outlets across Australia. The packaging of the Ceres fruit juice range contained the following representations, as placed in descending order on the product packaging: -

Front of packaging

- '100% Pure fruit juice blend' bolded and in grey text on a white background
- The characterising fruit (such as 'Orange') in conjunction with the words '...and other fruit' in grey text on a white background
- The characterising fruit (such as 'Orange') in bold green text on a white background
- A pictorial representation of the characterising fruit(s)
- The characterising fruit (such as 'Orange') in bold green text on a white background

Sides of packaging

- The characterising fruit (such as 'Orange') in bold green text on a white background
- A list of ingredients in which the composition percentage of the ingredients is not provided

Back of packaging

- An over-label containing the following:

- A representation concerning the characterising fruit (such as ‘Orange’) in black text on a white background
- ‘100% Fruit Juice Blend’ in black text on a white background
- A list of ingredients containing the percentage composition of each ingredient.

5. The following table sets out the percentage of fruit ingredients in the relevant fruit juices:

Product	Ingredients	%
100% Fruit Juice Blend - Orange	Reconstituted grape juice	55
	Reconstituted orange juice	45
	Vitamin C	
100% Fruit Juice Blend - Pineapple	Reconstituted grape juice	53
	Reconstituted pineapple juice	47
	Vitamin C	
100% Fruit Juice Blend - Papaya	Reconstituted grape juice	89
	Papaya puree	11
	Vitamin C	
100% Fruit Juice Blend - Litchi	Reconstituted grape juice	90
	Litchi puree	10
	Vitamin C	
100% Fruit Juice Blend - Mango	Reconstituted grape juice	81
	Mango puree	19
	Vitamin C	
100% Fruit Juice Blend – Cranberry & Kiwi	Reconstituted grape juice	94
	Reconstituted cranberry juice	3
	Reconstituted kiwi juice	3
	Vitamin C	
100% Fruit Juice Blend – Secrets of the Valley	Reconstituted grape juice	61
	Reconstituted apple juice	35
	Reconstituted cheers juice	2
	Reconstituted blackcurrent juice	2
	Vitamin C	
100% Fruit Juice Blend – Medley of Fruits	Reconstituted grape juice	70
	Guava puree	12
	Pineapple juice	6
	Papaya puree	4
	Mango puree	4
	Peach puree	3
	Passionfruit juice	1
Vitamin C		

6. Since July 2005 the ACCC received a number of complaints from consumers regarding representations made on the packaging of the Ceres fruit juice range. As a result of these complaints and subsequent investigation, the ACCC raised concerns with Dannon regarding possible breaches of the TPA.
7. The ACCC was concerned that the combined use of representations placed on the packaging of the orange, pineapple, papaya, litchi and mango fruit juice products sold within the Ceres fruit juice range created the overall impression that each juice contains 100% of the respective characterising ingredient (notwithstanding the use of the word "blend"), when that was not the case. The ACCC was also concerned with the prominent use of the representation '100% Pure fruit juice blend', as contained on the packaging of all juice products sold within the Ceres fruit juice range, when the addition of vitamin C meant that this was not the case.
8. After further investigation the ACCC came to the view that Dannon had engaged in conduct which was in breach of sections 52, 53(a) and 55 of the TPA.
9. Dannon acknowledges the ACCC's concerns that the combined use of representations placed on the packaging of the orange, pineapple, papaya, litchi and mango fruit juice products sold within the Ceres fruit juice range may have created the overall impression that each juice contained 100% of the respective characterising ingredient, when that was not the case. Dannon acknowledges the ACCC's concerns that all of the juice products sold within the Ceres fruit juice range were described as being '100% Pure fruit juice blend' when the addition of vitamin C meant that this was not the case.
10. Dannon acknowledges that its conduct may have misled consumers and that such conduct may have been in contravention of sections 52, 53(a) and 55 of the TPA.
11. Dannon has cooperated with the ACCC to resolve the ACCC's concerns and has offered undertakings pursuant to section 87B of the TPA.

COMMENCEMENT OF UNDERTAKINGS

12. This undertaking comes into effect when:
 - a) The Undertaking is executed by Dannon; and
 - b) The ACCC accepts this undertaking so executed.

Upon the commencement of this Undertaking, Dannon agrees to assume the obligations set out in paragraphs 13 and 14.

UNDERTAKINGS

13. Dannon undertakes for the purposes of section 87B of the TPA:

- a) It will not, whether by itself, its servants or agents, make any representation in trade or commerce in relation to the supply of, the offering of supply, the packaging, the labelling or the promotion of any fruit juice product which:
 - i. Creates an overall impression that a juice product contains 100% of a particular fruit juice, when the juice product in fact contains numerous types of fruit juice;
 - ii. Represents a juice product to be 100% fruit juice when vitamin C has been added to that product.
 - b) It will at its own expense cause to be published in a major daily newspaper in each State or Territory of Australia in which the Ceres fruit juice range is sold, an advertisement formed in terms of Annexure A to this undertaking and shall use its best endeavours to ensure that such advertisement is:
 - i. Of a size not less than two columns wide by 15cm deep;
 - ii. In text which is in a type size of no less than 10point;
 - iii. Within the first 20 pages of each newspaper; and
 - iv. Published once in each newspaper with the notice appearing within 14 days of the signing of this undertaking.
14. Dannon undertakes for the purposes of section 87B of the TPA that it will design and implement a Trade Practices Compliance Program covering sections 52, 53 and 55 of the TPA 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 6 months of this Undertaking coming into effect, and thereafter at least once a year for the period of the undertaking, Russell Bradshaw, a director of Dannon, will attend practical trade practices training focusing on sections 52, 53 and 55 of the TPA.
 - i. Dannon will ensure that the training referred to in paragraph (a) above is administered by a suitably qualified, compliance professional or legal practitioner with expertise in trade practices law.
 - ii. Dannon will provide a written statement or certificate from the trade practices professional who conducts the training referred to in paragraph (a) above to the ACCC within 14 days of completion of the training verifying that such training has occurred.
 - (b) Complaints handling – Dannon will:
 - i. develop procedures for recording, storing and responding to trade practices complaints within two months of this Undertaking coming into effect; and

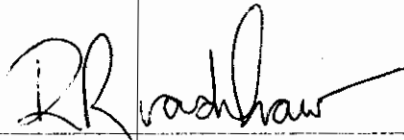
ii. notify the ACCC that the complaints handling system has been developed within two months of it coming into effect.

(c) If requested by the ACCC, Dannon 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.

ACKNOWLEDGEMENTS

- 15. Dannon acknowledges that the ACCC will make this Undertaking available for public inspection.
- 16. Dannon further acknowledges that the ACCC will from time to time publicly refer to this Undertaking.
- 17. Dannon acknowledges and accepts that these Undertakings in no way derogate from the rights and remedies available to any other person arising from the alleged conduct.

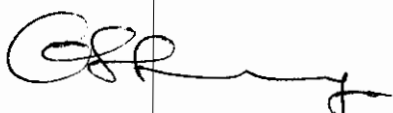
Signed in accordance with section 127 of the *Corporations Act 2001*:

Director: 

Director/Secretary: 

This 6th day of DECEMBER 2005.

ACCEPTED BY THE AUSTRALIAN COMPETITION & CONSUMER COMMISSION PURSUANT TO SECTION 87B OF THE TRADE PRACTICES ACT 1974


Graeme Julian Samuel
Chairperson

This 15th day of December 2005.

ANNEXURE A

Ceres Juices- Misleading Labels

The Australian Competition and Consumer Commission (ACCC) has raised concerns about claims Ceres Juices made on the labelling of its fruit juices. The Ceres range of fruit juices is imported and distributed by Dannon Pty Ltd.

The labelling on the Ceres range of fruit juices contained the words "100% Pure Fruit Juice Blend" along with pictures of specific fruits.

The ACCC was concerned that the packaging of the Ceres fruit juice range created the overall impression that the juices contained 100% of a particular fruit when that was not the case. The ACCC was also concerned that the products were described as 100% fruit juice when in fact vitamin C had been added.

Dannon acknowledges that consumers may have been misled about the content of the juices and have relabelled its range of fruit juices. The Ceres labels will now clearly show what fruits are contained in the juices.

For further information please contact Mr Russel Bradshaw at:

Dannon Pty Ltd
Distributor of Ceres Juices
(insert address here)
(insert telephone # here)



This corrective advertisement has been inserted by Dannon at the request of the Australian Competition and Consumer Commission (ACCC).