



**"SAFE EGGS"**

**UNDERTAKING TO THE**  
**AUSTRALIAN COMPETITION AND CONSUMER COMMISSION**  
**("ACCC")**  
**GIVEN PURSUANT TO SECTION 87B OF THE TRADE PRACTICES**  
**ACT 1974 AS AMENDED**

**GIVEN BY**

**GOLDEN EGGS PTY LTD**  
**(ACN 007 641 867)**  
("Golden Eggs")  
77 Palmer Place  
NORTH ADELAIDE SA 5006

**&**

**FALLWAY HOLDINGS PTY LTD (TRADING AS CHANTECLAIR**  
**FARMS)**  
**(ACN 059 081 622)**  
("Fallway")  
82 Lalor Road  
QUAKERS HILL NSW 2763

**VAN MOREY PTY LTD (TRADING AS SUN VALLEY POULTRY**  
**FARM)**  
**(ACN 052 446 401)**  
("Van Morey")  
46 Cameron Street  
LAUNCESTON TAS 7250

(hereinafter collectively referred to as "the Safe Egg Producers")

**BACKGROUND**

For a period of in excess of one year The Safe Egg Producers have marketed and sold a brand of eggs called the "Safe Egg" which are enriched in Omega 3 fatty acids. "Safe Eggs" have been sold in New South Wales, South Australia, the Northern Territory and Tasmania.

The ACCC has conducted an investigation into whether The Safe Egg Producers have engaged in conduct which has contravened sections 52 and 53 of the Trade Practices Act 1974 by making claims about the health and nutritional benefits

obtained by the eating of Safe Eggs ("the health claims") and about the Omega 3 fatty acids content of Safe Eggs. The health claims, which have been made in packaging, pamphlets, signs and radio advertisements, are set out in Schedule 1 hereto.

With a view to resolving this dispute The Safe Egg Producers have offered to the ACCC the following undertakings:

### **UNDERTAKINGS**

1. The Safe Egg Producers undertake:

- (a) to cease by 18 March 1996 the use of the product name "Safe Eggs" in respect of the Omega 3 enriched eggs sold and supplied by them ("Omega 3 eggs");
- (b) to modify all packaging cartons or other containers forthwith to ensure that no claim is made that the level of Omega 3 fatty acids in Omega 3 eggs is higher than 0.7g/100g;
- (c) to notify the ACCC in writing if it intends, before 18 March 1996, to change the claim as to Omega 3 fatty acids content to a figure higher than 0.7g/100g;
- (d) to put in place forthwith the sampling and Omega 3 fatty acids analysis procedure specified in Schedule 2 hereto, such work to be undertaken on behalf of The Safe Egg Producers by a body to be approved of by the ACCC;

(e) to conduct the said sampling and analysis procedure at regular intervals, of not in excess of one calendar month, the first such procedure to be initiated not later than 18 March 1996;

(f) to produce to the ACCC within 21 days of a request a report advising the ACCC of-

(i) the results of any sampling and analysis procedure;

and

(ii) a detailed description of the sampling and analysis procedure actually used;

all costs of the said sampling, analysis, and reporting to be borne by  
The Safe Egg Producers

(g) to produce to the ACCC within 21 days of a request copies of the packaging of Omega 3 eggs or any other written or other material regarding their promotion or sale;

(h) to keep for a period of not less than 3 years from their receipt or production all reports and samples of packaging as referred to in (f) and (g) above;

(i) to ensure, from 18 March 1996, that all packaging, cartons, or other containers, or advertising material of any kind whatsoever, manufactured, produced, broadcast or printed by The Safe Egg Producers, or on their behalf, does not make any representation that the level of Omega 3 fatty acids contained in Omega 3 eggs is any higher than the results of the most recent sampling and analysis procedure, as referred to in (d) and (e) above, indicates to be the case; and

- (j) to introduce appropriate quality assurance schemes to ensure the content and the quality of the feed fed to their hens remains constant (as far as is reasonably practicable) thereby ensuring that the level of Omega 3 contained in Omega 3 eggs is relatively constant.

2. The Safe Egg Producers further undertake:

- (a) to withdraw or cancel forthwith all packaging, pamphlets, signages, radio advertising, or other advertising material of any form whatsoever relating to "Safe Eggs";
- (b) from the date hereof, not to make, in trade or commerce, in any form, written, spoken or otherwise, the health benefits claims;
- (c) to consult with the ACCC regarding the wording of a pamphlet, to be distributed by 18 March 1996, negating any health benefits claims relating to the consumption of Omega 3 eggs;

and

- (d) to pay to the ACCC within a reasonable period from the date hereof an agreed sum towards the reasonable costs incurred by the ACCC in conducting this investigation.

3. Fallway undertakes not to grant any further licences in respect of Omega 3 eggs (whether by express agreement or otherwise) which are not subject to conditions incorporating the above undertakings.

### **ACKNOWLEDGEMENTS**

- 1. The Safe Egg Producers acknowledge that the ACCC will make this undertaking available for public inspection.

2. The Safe Egg Producers acknowledge that the ACCC will from time to time refer to the undertaking including by media release or in publications
3. The Safe Egg Producers acknowledge and accept that this undertaking in no way derogates from the rights and the remedies available to any other person arising from the alleged conduct.

DATED the <sup>14<sup>th</sup></sup> day of FEBRUARY 1996

**IN WITNESS OF THESE UNDERTAKINGS**

THE COMMON SEAL OF  
GOLDEN EGGS PTY LTD  
WAS HEREUNTO AFFIXED BY  
AUTHORITY OF THE BOARD OF  
DIRECTORS PREVIOUSLY GIVEN  
IN THE PRESENCE OF:

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.....  
DIRECTOR

.....  
SECRETARY

THE COMMON SEAL OF  
FALLWAY HOLDING PTY LTD  
WAS HEREUNTO AFFIXED BY  
AUTHORITY OF THE BOARD OF  
DIRECTORS PREVIOUSLY GIVEN  
IN THE PRESENCE OF:

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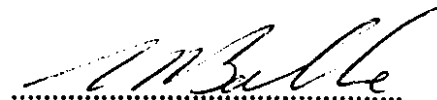



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DIRECTOR

.....  
SECRETARY

THE COMMON SEAL OF  
VAN MOREY PTY LTD  
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IN THE PRESENCE OF:



  
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DIRECTOR

  
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SECRETARY

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

  
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A. FELS  
CHAIRMAN ACCC

14 June 1996