



**UNDERTAKING TO THE TRADE PRACTICES COMMISSION PURSUANT TO SECTION 87B
BY CCA BEVERAGES (NORTH QUEENSLAND) PTY LIMITED**

- A** Coca-Cola Holdings (Overseas) Limited ("CCHO") is a foreign company duly registered in the State of New South Wales, trading as Beverage Industries, which in 1992 imported "Aquarius", a canned soft drink beverage, for resale to Coca-Cola Amatil Limited ("CCA") and CCA subsidiary bottling companies.
- B** Following an investigation by the Trade Practices Commission ("TPC"), CCHO was informed that the TPC considered that CCHO, CCA and a number of CCA's subsidiary bottling companies had made misleading representations in relation to the place of origin of "Aquarius".
- C** The cans in which "Aquarius" was sold had printed on them a depiction of the Australian flag with the traditional five Olympic rings underneath it. The flag and rings together comprised the logo ("Olympic Logo") which The Coca-Cola Company, as an Olympic Games sponsor, was licensed by the International Olympic Committee to apply to its products marketed in Australia in connection with the 1992 Barcelona Games ("the Olympic Licence"). The cans of "Aquarius" also bore the legend "Prepared and Canned for CCA Beverages, 71 Macquarie Street, Sydney, 2000". The cans of "Aquarius" had nothing printed on them that would indicate to consumers that the cans were made and filled in Taiwan.
- D** The cans of "Aquarius" were imported into Australia in cartons, which stated, inter-alia, the words "made in Taiwan". Each of the cartons contained 24 individual cans of "Aquarius".
- E** The TPC is concerned that consumers may have purchased "Aquarius" believing that "Aquarius" was made in Australia.
- F** The TPC accepts that the Olympic Logo was included on cans of "Aquarius" because of the Olympic Licence, in common with other products of The Coca-Cola Company manufactured in Australia at that time, and that CCHO did so without any intention of misleading or deceiving consumers into believing that "Aquarius" was made in Australia.

- G** In April 1992 and August 1992 CCHO imported 45,900 cartons of "Aquarius" for distribution in Australia, which was sold to CCA in Australia and distributed by CCA and/or the subsidiaries of CCA in Australia. From the period June 1992 until September 1993, the net sales of "Aquarius" in Australia were approximately 20,000 cartons. These net sales represented approximately 0.02 percent of the total volume of beverage products distributed by CCA and its subsidiaries in Australia over the same period.
- H** CCHO has further stated that "Aquarius" was distributed to some 3,825 retail outlets Australia wide, which amount to approximately 3% of the some 120,000 retail outlets across Australia to which CCA and its subsidiaries normally supply products of The Coca-Cola Company.
- I** CCHO has caused 22,253 cartons of "Aquarius" to be withdrawn from the market and destroyed as a result of concerns raised by the Australian Customs Service and the TPC over the failure to disclose the country of origin.
- J** The TPC notes that CCHO has fully and voluntarily co-operated with the Australian Customs Service and with the TPC with respect to the matter and has used its best endeavours to recall all stocks of "Aquarius" distributed throughout Australia.

UNDERTAKING

CCA Beverages (North Queensland) Pty Limited ("CCABNQ") undertakes for the purpose of Section 87B of the Trade Practices Act 1974 as follows:


- 1 This undertaking is in force for a period of 3 years from the date shown below, and expires on the third anniversary of the date hereof.**
- 2 CCABNQ will, in relation to any beverage product imported by it into Australia for supply in Australia, clearly state the product's country of origin on the labelling and packaging of the product.**
- 3 CCABNQ will not, in relation to any beverage product supplied by it which is imported into Australia, use the symbol of the Australian flag, with or without the traditional five Olympic rings, on the labelling and/or packaging of that product without clearly stating the product's country of origin.**

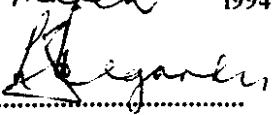
4 CCABNQ acknowledges that it has read the TPC's brochure entitled "Labelling the Origin of Goods April 1990".

CCABNQ acknowledges and accepts that this undertaking will be placed on the TPC's public register.

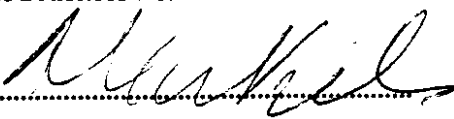
CCABNQ also notes that this undertaking in no way derogates from the rights or remedies available to any other person arising from the alleged conduct.

In witness of these undertakings)
Signed for and on behalf of)
CCA BEVERAGES (NORTH)
QUEENSLAND) PTY LIMITED by)
MARK CLARK)
in the presence of


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Regional Director Australia

this 17th day of March 1994

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Accepted by the Trade Practices
Commission pursuant to Section 87B of the
Trade Practices Act


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Professor Allan Fels, Chairman