

TRADE PRACTICES ACT 1974

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

BY

FLIGHT CENTRE LIMITED (ACN 003 377 188)

PERSON GIVING UNDERTAKING

1. This undertaking is given to the Australian Competition and Consumer Commission ('the Commission') by Flight Centre Limited (ACN 003 377 188) ("Flight Centre") of Level 2/ 157 Ann Street, Brisbane QLD 4000 under section 87B of the *Trade Practices Act* ('the Act').

BACKGROUND

2. Flight Centre is a national company that owns and operates retail outlets that sell domestic and international flights to consumers.
3. In May and June 2000, Flight Centre ran an advertising campaign (C*9SI/CAMPAIGN) that compared the prices for flights "Take off & book now!" as opposed to "book later!". An example of an advertisement in the campaign is attached as **Annexure A**. Approximately 10 consumers or potential consumers complained to the Commission that the campaign misled them into believing that the prices of airline tickets would increase because of the GST by over 10% ("the complaint").

Commission's approach

4. On 21 June 2000, the Commission wrote to Flight Centre to inform it, inter alia, of the complaint and the Commission's concern that Flight Centre may have

made representations that were misleading or deceptive or likely to mislead or deceive contrary to section 52 of the Act.

5. The Commission sought information from Flight Centre or, alternatively, written undertakings.
6. On 1 July 2000, Flight Centre acknowledged, in hindsight, that the campaign could be considered misleading although this was not its intention at the time.
7. The Commission accepts that Flight Centre has co-operated with the investigation fully.
8. The Commission and Flight Centre have agreed to resolve this matter by the giving and acceptance of an undertaking in the terms contained herein.

COMMENCEMENT OF UNDERTAKING

9. This undertaking comes into effect when:
 - the undertaking is executed by Flight Centre; and
 - the Commission accepts the undertaking so executed.

UNDERTAKINGS

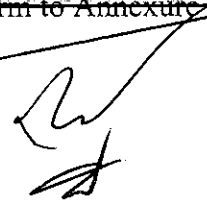
10. Flight Centre gives the following undertakings to the Commission for the purposes of section 87B of the *Trade Practices Act 1974*.

CONDUCT UNDERTAKINGS

- ~~(i) Flight Centre will publish an advertisement in similar form to Annexure A once in the following publications:~~

~~(a)~~

~~with no advertisement being smaller than~~



TRADE PRACTICES COMPLIANCE PROGRAM

- (i) Flight Centre will implement a trade practices compliance program ('the Program') in accordance with **Annexure C**.

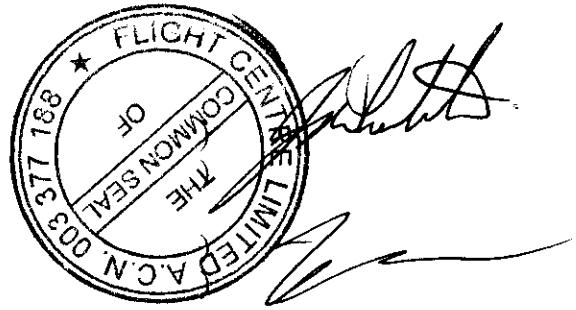
ACKNOWLEDGEMENTS

11. Flight Centre acknowledges that the Commission will make this undertaking available for public inspection.
12. Flight Centre further acknowledges that the Commission will, from time to time, publicly refer to this undertaking.
13. Flight Centre acknowledges and accepts that this undertaking in no way derogates the rights and remedies available to any person arising from the conduct of Flight Centre.
14. Flight Centre further acknowledges that the information referred to at **Annexure B** and the compliance program as in force from time to time will be held with this undertaking on the public register.

Signed on behalf of Flight Centre by

**IN WITNESS of these undertakings:
The COMMON SEAL of
Flight Centre**

was affixed hereunto by authority of
the Board of Directors in the presence of:



John Whaley
.....
Secretary/Director
Name (Printed):

Graham Turner
Director.

This 7th day of *December* 2000

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

Allan Fels
.....
Professor Allan Fels
Chairman

This 21 day of *March* 2000

Avenue A.

LOWEST AIRFARES GUARANTEED

FLIGHT CENTRE guarantee to BEAT any genuine current price!
24 HOURS A DAY, 365 DAYS A YEAR!

TAKE OFF & Book NOW! Book LATER!

Melbourne	\$189*	INCL GST \$275 [†]
Sydney	\$259*	INCL GST \$405 [†]
Hobart	\$299*	INCL GST \$440 [†]
Brisbane	\$339*	INCL GST \$525 [†]
Perth	\$339*	INCL GST \$550 [†]
Cairns	\$449*	INCL GST \$620 [†]

BONUS HUGE PRIZES to be WON!
QANTAS INFLIGHT PRIZE PROMOTION - FOR TRAVEL IN JUNE



Hamilton Is. \$753* INCL GST **\$970[†]**

INCLUDES return airfare, 3 nights accommodation at Coconut Palm Bungalows (Prices per person/twin share)
BONUS kids stay, play & eat for FREE PLUS Free full buffet breakfast daily



Qantas Aussie PASS!

THE MORE YOU TRAVEL THE MORE YOU SAVE!

ZONE 1 \$110**	ZONE 2 \$165**
ZONE 3 \$275**	SAVE UP TO 75%

PLUS WIN BACK YOUR HOLIDAY! SEE INSTORE FOR DETAILS **\$10,000 UP FOR GRABS!**
Book & pay in June to be in the running!

C*951/CAMPAIGNJUN

* Conditions and travel restrictions apply - seats booked and purchased a minimum of 7 days prior to departure and are available for travel between 3 June and 15 June 2000. Sale ends 8 June 2000. † Conditions & travel restrictions apply offers based on 31 day advance purchase fares. Seats booked and purchased a minimum of 31 days prior to departure and are available for travel between 17 July and 7 Sept 2000. Must book by 17 August 2000.
** Aussie Pass prices are GST inclusive. No city may appear on the value more than twice. Travel on the fast start flight must not commence earlier than 3 days after departure from fare origin.
Minimum security of at least 3 destinations apply. Ex AD/BLAIDE Lic No. YTA06154-J



CALL YOUR NEAREST STORE

131 600

BOOK & PAY BY PHONE 24HRS



FLIGHT CENTRE

WORLD'S NO.1 DISCOUNT FLIGHT SPECIALISTS

Annexure B



FLIGHT CENTRE

THE DISCOUNT FLIGHT SPECIALIST A.C.N. 003 377 188 Licence No. 9TA00589
Level 6, 157 Ann Street, Brisbane QLD 4000 Ph. 07 3011 7220 Fax. 07 3229 0870 Mobile: 0412 835 852

FACSIMILE TRANSMISSION

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TO : Teni Berberian, Australian Competition & Consumer Commission.
FAX : 02 9223 1092
FROM : **John Whateley. Company Secretary.**
DATE : 14th September 2000
 No. of Pages (including this one)1....

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Teni,

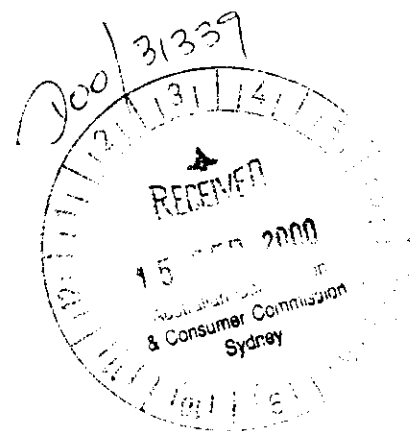
Details of the publication of the approved advertisement is as follows:


West Australian.	Thursday 21st September.
Cairns Post.	Saturday 16th September.
Townsville Bulletin.	Saturday 16th September.
Sydney Sunday Telegraph.	Sunday 24th September
Sunday Territorian.	Sunday 17th September.
Brisbane Sunday Mail.	Sunday 17th September.
Melbourne Sunday Herald Sun.	Sunday 17th September.
Adelaide Advertiser.	Saturday 16th September.

Should you have any further enquiries please contact me.

Regards,

John Whateley.





 **FLIGHT CENTRE**
A DIVISION OF AIRWAYS AUSTRALIA

APOLOGY

Flight Centre, after consultation with The Australian Competition and Consumer Commission, is aware that a promotional campaign run in early June promoting domestic airfares may have misled some people into believing that airfares were to increase by more than the 10% due to the introduction of the GST on 1 July 2000.

Airfares have not increased by more than 10% under the new tax system and it was not Flight Centre's intention to make any such suggestion. Flight Centre regrets any inconvenience caused by this campaign.


 Australian Competition & Consumer Commission

 LICENCE No
 SPELL CHECK
 DESIGN/LAYOUT CHECK
 CHECKED BY

CLIENT APPROVAL
HAVE YOU PROOFED THIS?
 It is your responsibility to proof and check all spelling and product. Although care is taken to ensure accuracy, AIRWORKS will not be held responsible for any errors after sign-off.

SIGNED.....

Annexure C

Trade Practices Compliance Program

The Trade Practices Compliance Program (“the Program”) to be undertaken by Flight Centre will be implemented as follows:

General

- 1) Within two (2) months of the undertaking coming into effect, Flight Centre will develop for consideration by the Commission, a trade practices compliance program (“the Draft Program”).
- 2) Flight Centre will make whatever changes to the Draft Program that the Commission may reasonably require.
- 3) Once the Commission has approved the Program, Flight Centre will, within one (1) month of receipt of the Commission’s approval, implement the Program at its own expense.
- 4) Flight Centre will place responsibility for the implementation and effectiveness of the Program with its Director.
- 5) Flight Centre will appoint a senior officer as the Trade Practices Compliance Officer (“the Compliance Officer”). The Compliance Officer will be appointed at the time the Program is implemented.

Advertising Reviews

- 6) Flight Centre will require the Compliance Officer to review all advertising (“Advertising Review”) of Flight Centre (by any medium) to ensure that it complies with the *Trade Practices Act 1974*, prior to its publication or broadcast. Without limiting the scope of the Advertising Review, it will address:
 - i) Whether representations contained in the advertisements are able to be substantiated;
 - ii) Whether representations contained in the advertisements are likely to mislead or deceive consumers;
 - iii) Whether representations as to future matter, is made on reasonable grounds; and
 - iv) Whether the representations made in the advertisement require qualification, and if so, whether the advertisement provides the information necessary to qualify the representation. Such qualification should be of a size and prominence to effectively qualify any representation.
- 7) Flight Centre will require the Compliance Officer to maintain a documentary record of the Advertising Reviews. Such documentary record will include:
 - i) a description of the advertisement;

- ii) a description of the publication (including name, date, page(s) and publisher);
 - iii) a copy of the advertisement;
 - iv) written advice that the advertisement had been reviewed and cleared by the Compliance Officer (including the date on which the advertisement was reviewed); and
 - v) written advice of any possible contraventions of the Trade Practices Act that were identified by the Compliance Officer and the action taken to address these possible contraventions.
- 8) Flight Centre will ensure that the documentary records of the Compliance Reviews are available to the Australian Competition and Consumer Commission (“the Commission”) to be reviewed from time to time. Such records are to be available from one week after the date of publication of the advertisement for a period of 3 years after that date. Such records shall be provided to the Commission within 5 working days of a written request for those records.

Complaints Handling

- 9) Flight Centre will ensure that the Program incorporates an appropriate complaints handling mechanism.

Education

- 10) Flight Centre will develop and implement an education program calculated to have the relevant staff, conversant with Part VB and Part V provisions of the Act to a level where:
- i) General staff can avoid obvious contraventions and can identify more complex trade practices problems for referral to the Compliance Officer;
 - ii) the Compliance Officer can carry out their responsibilities; and
 - iii) the Compliance Officer can address more complex trade practices issues or, if not legally qualified or able to give the relevant advice, identify issues which require referral to Flight Centre’s legal adviser.
- 11) The term “relevant staff” referred to above and below includes, Flight Centre staff, but is not limited to, the Director, staff involved in the development, creation, input or approval of advertising or promotional material for or on behalf of Flight Centre involved in contact with customers or possible customers of Flight Centre.
- 12) Flight Centre will ensure that training sessions covering all aspects of Part VB and Part V on the Trade Practices Act be given to relevant staff on two occasions within the twelve months after the implementation of the Program. The first of these training sessions is to be completed within 3 months of the Program being implemented and the remaining one between 8 and 9 months later.

Review

- 13) Flight Centre will ensure that an independent external auditor, with expertise in trade practices law, conducts an audit (“the Audit”) of the program with a view to improving its effectiveness. The Audit will be conducted between 11 and 12 months after the implementation of the Program. The Audit will identify deficiencies and make recommendations as to possible improvements to the Program.

Reporting

- 14) Flight Centre will provide the Commission with the following:
 - i) Within 10 working days of the implementation of the Program, a copy of the Program;
 - ii) Within 10 working days of the implementation of the Program, notice of the appointment of the Compliance Officer including name, position and contact details;
 - iii) Within 10 working days after each of the training sessions, notice of completion of that seminar including an outline of the session, details of the presenter(s) and details of attendees; and
 - iv) Within 10 working days of the completion of the Audit, a copy of the Audit together with advice as to what changes Flight Centre intends to incorporate in the Program as a result of the Audit.
- 15) Flight Centre will make changes to the Program as reasonably requested by the Commission having considered the documentation referred to at paragraph 14 (iv) above. Such changes are to be implemented within 2 weeks of the Commission’s request.

Duration

- 16) The Program will remain in effect for three years following the undertaking coming into effect.