

**TRADE PRACTICES ACT 1974**

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

**BY**

**UNITED AIR LINES INC.  
(ACN 002 991 353)**

**PERSONS GIVING THIS UNDERTAKING**

1. This Undertaking is given to the Australian Competition & Consumer Commission (ACCC) by United Air Lines Inc. (ACN 002 991 353) (United) of 10 Barrack Street, Sydney, in the state of New South Wales, under section 87B of the *Trade Practices Act 1974* (TPA).

**BACKGROUND**

2. There has been a practice in the Australian aviation industry when advertising airfares of publishing the airfare exclusive of additional taxes, levies and charges that are payable by a consumer as a necessary pre-condition of being issued with a ticket.
3. The ACCC has expressed the view that publishing a price of an airfare that does not adequately disclose the total price payable by a consumer as a necessary pre-condition of receiving the represented services (the total fare) may contravene sections 52, 53(e) and 53C of TPA.
4. The ACCC has expressed the concern that the advertising of airfares other than on a total fare basis;
  - does not adequately disclose the fact that further taxes, levies and charges are payable in addition to the advertised fare; and
  - may mislead consumers as to the total fare.
5. In December 2006, the ACCC became aware that United had been advertising headline airfares on its Australian based website that did not include applicable taxes, levies & charges payable by a consumer as a pre-condition of receiving the represented services. Similar advertising by United has appeared in the Sydney Morning Herald and other newspapers in the past. To address the ACCC's concerns and in support of the ACCC's stance on price advertising in the travel industry, United has offered this Undertaking.
6. United operates an international airline, which includes the transportation of passengers between Australia and the United States of America, and other destinations.

7. The ACCC believes that airfares should be advertised on a **Total Fare Basis**. For the purposes of this Undertaking, Total Fare Basis means, in relation to any advertising that includes or refers to an airfare, that the price of the airfare;
  - a) includes all amounts payable by a consumer in respect of the fare as a necessary pre-condition to the supply of the advertised services to the consumer (**the single total fare**); or
  - b) refers in dollar terms to all component amounts (whether individually specified or aggregated) that make up the single total fare (**the composite total fare**).

## **COMMENCEMENT OF UNDERTAKINGS**

8. This Undertaking comes into effect when the ACCC accepts the Undertaking which has been executed by United.
9. Upon commencement of this Undertaking, United (whether by itself or by its officers, employees, members, agents or otherwise) undertakes to assume the obligations set out in paragraphs 10 to 14.

## **UNDERTAKINGS**

### **Price Advertising**

10. Upon commencement of this Undertaking, United undertakes to only advertise or represent the prices of fares for air travel on a Total Fare Basis.
11. In respect of United specifying the price of an airfare on a Total Fare Basis in any advertisement that includes or refers to a composite total fare, all components shall be:
  - a) individually specified or aggregated in such a manner;
  - b) located in close proximity to each other; and
  - c) given such prominence as is necessary;

to allow the consumer to readily ascertain the single total fare, without having to perform a complex calculation.

12. In respect of United specifying the price of an airfare on a Total Fare Basis where passengers may incur different charges, levies and taxes in respect of travel between two points depending on whether the passenger travels directly between those points or travels via particular intermediary points or on a particular aircraft, United may advertise;
  - a) a single total fare on a "from" basis, and include in the fare the amount of charges, levies and taxes that passengers will incur in travelling between those points via the routing that incurs the least amount of charges, levies and taxes; and

- b) a composite total fare on a “from” basis, and include in the component amount(s) that constitute(s) the charges, levies and taxes, the amount of charges, levies and taxes that passengers will incur in travelling between those points via the routing that incurs the least amount of charges, levies and taxes.
13. This Total Fare Basis Undertaking;
- a) comes into effect when;
    - i) the Undertaking is executed by United; and
    - ii) the ACCC accepts the Undertaking so executed by United.
14. This Undertaking will expire 24 months from the date on which it is accepted by the ACCC.

#### **Trade Practices Compliance Program review**

15. Within a period of 3 months from the commencement of this Undertaking, United will engage a suitably qualified, compliance professional or legal practitioner with expertise in trade practices law to conduct a review of its Trade Practices Compliance Program in reference to price advertising and recommend any required changes to that program in order to ensure future compliance with the TPA. United will use its best endeavours to cause the review to commence no later than 4 months from the commencement of this Undertaking.
16. United will implement any changes to their Trade Practices Compliance Program recommended by a suitably qualified, compliance professional or legal practitioner with expertise in trade practices law within 1 month of receiving the recommendations. At this time, United will report the results of the review of its Trade Practices Compliance Program with reference to price advertising to the ACCC, and also disclose any required changes to that program to ensure future compliance with the TPA.

#### **ACKNOWLEDGEMENTS**

17. United acknowledges that the ACCC will make this Undertaking available for public inspection.
18. United acknowledges that the ACCC will from time to time publicly refer to this Undertaking.
19. United acknowledges and accepts that these Undertakings in no way derogate from the rights and remedies available to any other person arising from the conduct that is the subject of the ACCC’s concerns.

**EXECUTED BY**

United Air Lines Inc. (ACN 002 991 353)

In accordance with section 127 of the *Corporations Act 2001*:

\_\_\_\_\_  
Signature of Director

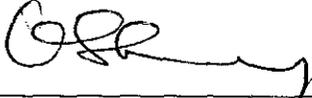
  
\_\_\_\_\_  
John P. Tague

\_\_\_\_\_  
Signature of Director/Secretary

  
\_\_\_\_\_  
Frederic F. Brace

This 28<sup>th</sup> day of June 2007.

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

  
\_\_\_\_\_  
Graeme Julian Samuel  
Chairperson

This 9<sup>th</sup> day of July 2007.