

IN THE HIGH COURT OF AUSTRALIA  
BRISBANE REGISTRY

NO B15 OF 2016

**BETWEEN:** AUSTRALIAN COMPETITION AND  
CONSUMER COMMISSION  
Appellant

**AND:** FLIGHT CENTRE TRAVEL GROUP LTD  
ACN 003 377 188  
Respondent

**APPELLANT'S CHRONOLOGY**

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**PART I FORM OF CHRONOLOGY**

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1. This chronology is in a form suitable for publication on the internet.

**PART II CHRONOLOGY**

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	<b>Date</b>	<b>Event</b>	<b>Appeal book reference</b>
10	28 June 1995	Flight Centre and the International Air Transport Association enter into Passenger Sales Agency Agreement	
	3 May 2005	Flight Centre and Singapore Airlines enter into a preferred agreement for the period 1 April 2005 to 31 March 2006.	
20	12 July 2005	Darren Burgess of Flight Centre emails a number of Emirates officers asking for an internet level playing field.	
	16 August 2005	Darren Burgess of Flight Centre sends internal emails to Tim Hayden of Flight Centre about special fares being offered directly to would be passengers by Singapore Airlines on its website.	
30		Tim Hayden of Flight Centre sends an email to Kieran O'Toole of Singapore Airlines asking if Mr O'Toole could help with price beats.	
	17 August 2005	Kieran O'Toole of Singapore Airlines sends an email to Tim Hayden of Flight Centre advising that the online fares are a short term initiative associated with Singapore Airlines' major sponsorship of the City to Surf in Sydney and the launch of its new website.	
40	18 August 2005	Darren Burgess of Flight Centre sends an email to Brian Egan of Malaysia Airlines about the problem of dealing with Malaysia Airlines' internet only specials which were offered direct to consumers.  Mr Burgess said that consumers more and more used the internet to shop then brought the fare to Flight Centre to match.	
50	19 August 2005	Darren Burgess of Flight Centre sends an email to Kieran O'Toole of Singapore Airlines, formally expressing Flight Centre's opposition and concern at Singapore	

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10	<p>Airlines' recent internet initiative, which was undercutting Flight Centre by a large amount.</p> <p>Mr Burgess said the problem with these initiatives is the enquiry they generated to Flight Centre stores. Mr Burgess said more and more consumers were using the internet to shop and were bringing those fares to Flight Centre to match.</p> <p>Mr Burgess said Flight Centre would need to be more strategic in its control of distribution so it is important for Flight Centre to know Singapore Airlines' future intentions and be assured of its commitment to the agency distribution network, and that it was difficult to be both friend and foe (<i>First attempt to induce</i>).</p>	
20	<p>Flight Centre was negotiating a preferred agreement with Singapore Airlines.</p>	
30	<p>17 March 2006 Darren Burgess of Flight Centre sends an email to James Dunne of Singapore Airlines, seeking a commitment to allowing Flight Centre a margin to operate, as a result of Singapore Airlines undercutting or allowing Flight Centre an insignificant margin through its internet sales.</p> <p>Mr Burgess said these reduced margins for this year had made it difficult at times to push the agreement from a head office perspective and recognition of this issue would help Flight Centre and Singapore Airlines achieve their collective goals.</p> <p>(<i>Second attempt to induce</i>).</p>	
40	<p>Flight Centre was negotiating a preferred agreement with Singapore Airlines</p>	
28 April 2006	<p>Flight Centre and Singapore Airlines enter into a preferred agreement for the period 1 April 2006 to 31 March 2007.</p>	
28 August 2007	<p>Flight Centre and Singapore Airlines enter into a preferred agreement for the period 1 April 2007 to 31 March 2008.</p>	
50	<p>November 2007 Flight Centre prepares its 4 year strategic plan of November 2007. In its strengths, weaknesses, opportunities and threats</p>	

Date	Event	Appeal book reference
	analysis, Flight Centre identifies one of its external threats as being "Supplier competition, suppliers developing direct relationships with customers".	
13 December 2007	Flight Centre and Emirates enter into a preferred agreement for the period 1 April 2007 to 31 March 2008.	
10	1 May 2008	Flight Centre prepares an internal document headed "FCL Group London May 2008 - Top Strategic Elephants and the Top Strategies to Address Them". Under the Heading "SWOT Analysis & Strategic Elephants", Flight Centre identified one of its threats as being "Dependency for profits on major suppliers who are also competitors".
20	30 May 2008	Darren Burgess of Flight Centre sends an email to Stephen Pearse of Emirates. Mr Burgess referred to Emirates' website specials and said those website specials served to undermine Flight Centre's ability to drive the [preferred] agreement ( <i>Third attempt to induce</i> ).
30	11 June 2008	Flight Centre was negotiating a preferred agreement with Emirates. Flight Centre and Singapore Airlines enter into a preferred agreement for the period 1 April 2008 to 31 March 2009.
	6 October 2008	Flight Centre and Emirates enter into a preferred agreement for the period 1 April 2008 to 31 March 2009.
40	31 December 2008	Darren Burgess of Flight Centre sends an email to Stephen Pearse of Emirates. Mr Burgess referred to Emirates reducing its commissions from 9% to 7% and observed that Emirates was still discounting 4% on the web, leaving Flight Centre consultants with a margin of 3%.
50		Mr Burgess said with the additional rewards Emirates gives to book online why was it also necessary to discount the fare, and suggested that in many instances Flight Centre was only able to earn 3% because of Emirates' online offer. ( <i>Fourth attempt to induce</i> ).

Date	Event	Appeal book reference
	Flight Centre was preparing to negotiate a preferred agreement with Emirates.	
January 2009	Flight Centre prepares a 5 year Strategic Plan. In the section "SWOT Analysis & Strategic Elephants", Flight Centre identifies one of its threats as being "Dependency for profits on major suppliers who are also competitors".	10
23 February 2009	Darren Burgess of Flight Centre sends an email to Julia Loong of Malaysia Airlines. Mr Burgess attaches a price beat against a cheaper airfare offered by Malaysia Airlines directly, and said to Ms Loong, please find another example of online fares being significantly cheaper than Flight Centre had available, this time against Malaysia Airlines' so called expo special.  Mr Burgess said if this practice continued MH [Malaysia Airlines] would not be invited to participate in any future events. <i>(Fifth attempt to induce)</i>	20
25 February 2009	Darren Burgess of Flight Centre sends an email to Julia Loong of Malaysia Airlines, setting out a brief summary of what he wanted to discuss with Ms Loong and another Malaysia Airlines representative that morning.  One of those matters was the issue of online fares.  Mr Burgess said that while he appreciated that Malaysia Airlines was finally looking at giving Flight Centre access to those fares, Flight Centre needed a margin to operate. <i>(Fifth attempt to induce)</i>	30
27 February 2009	Darren Burgess of Flight Centre sends an email to various representatives of Malaysia Airlines. Mr Burgess said as discussed, he had no doubt that if Malaysia Airlines changed its pricing policies, 2009 could be a relatively good year for Malaysia Airlines in Australia.  Mr Burgess said that continuing offers online such as the one outlined below would only serve to alienate Malaysia Airlines with	50

Date	Event	Appeal book reference
	Flight Centre consultants. <i>(Fifth attempt to induce)</i>	
10	Darren Burgess of Flight Centre sends an email to Julia Loong of Malaysia Airlines copied to other Malaysia Airlines representatives. Mr Burgess asked for a commitment in relation to Malaysia Airlines' current online offers, which he said were continuing to cause Flight Centre great pain financially.	
20	Mr Burgess asked: Will these offers continue? When will Malaysia Airlines' fares be the same online as through the GDS? Mr Burgess said to Ms Loong, that if she really wanted Flight Centre to help Malaysia Airlines with the various promotions planned in the coming months, then this activity must stop. Until that happened, Flight Centre was not able to commit to any activity. <i>(Fifth attempt to induce)</i>	
30	11 March 2009 Darren Burgess of Flight Centre sends an email to Julia Loong of Malaysia Airlines. Under the heading "Online fares" Mr Burgess said that whilst it was great that Malaysia Airlines was common rating fares on the internet with GDS fares from 17 March, Flight Centre was not a charity and needed a margin to operate.	
40	Mr Burgess said if Flight Centre consultants were consistently not earning money by selling any given product, they would stop offering it as an option to potential clients. Mr Burgess said this would limit the amount of business Malaysia Airlines received. <i>(Fifth attempt to induce)</i>	
	February/March 2009 Flight Centre was negotiating a preferred agreement with Malaysia Airlines	
50	Approximately March 2009 Flight Centre and Malaysia Airlines enter into a preferred agreement for the period 1 January 2009 to 31 December 2009. <i>Preferred agreement dated 15 January 2009</i>	
	6 April 2009 Flight Centre prepares an aide memoire	

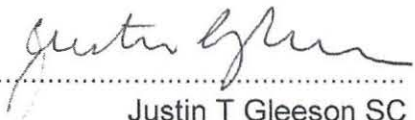
Date	Event	Appeal book reference
10	<p>during negotiations with Singapore Airlines in relation to a preferred agreement for the 2009/10 year. Under the heading "Questions", Flight Centre wanted to know whether it would have parity with all Singapore Airlines' web offers, and whether Singapore Airlines could guarantee that Flight Centre would not be undercut by later special offers.</p>	
12 May 2009	<p>Graham Turner of Flight Centre sends an email to Subhas Menon of Singapore Airlines, during negotiations with Singapore Airlines in relation to a preferred agreement for the 2009/10 year.</p> <p>Mr Turner said if a preferred agreement could not be reached Flight Centre would move in either two ways, being either a "Stop Sell" or "Slow Sell" on Singapore Airlines' flights.</p> <p>Mr Turner listed four "basics" that Flight Centre wanted in a preferred agreement. The second listed basic was an agreement that Flight Centre would not be undercut on the web.</p> <p><i>(Sixth attempt to induce).</i></p>	20
14 May 2009	<p>Graham Turner of Flight Centre sends an email to Subhas Menon of Singapore Airlines, during negotiations with Singapore Airlines in relation to a preferred agreement for the 2009/10 year.</p> <p>Mr Turner said the web is an issue and may be the clincher as to why it may be best for Flight Centre and Singapore Airlines to go their separate ways <i>(Sixth attempt to induce)</i>.</p>	30
16 May 2009	<p>Graham Turner of Flight Centre sends an email to Subhas Menon of Singapore Airlines, during negotiations with Singapore Airlines in relation to a preferred agreement for the 2009/10 year.</p> <p>Mr Turner set out the rates and conditions Flight Centre needed to have Singapore Airlines as a preferred carrier. One of those conditions was for Flight Centre to have web fares available on the same conditions in the GDS as was available through the</p>	40
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Date	Event	Appeal book reference
	Singapore Airlines' website. (Sixth attempt to induce).	
June 2009	Flight Centre prepares a document entitled "2012/2013 Argenti Plan Overview - Update June 2009".  In that document, Flight Centre identified one of the "Industry or Market Driving Forces" as being "Disintermediation - suppliers going directly to customers".	
January 2008 to July 2010	Flight Centre prepared monthly price beat reports which recorded the impact of direct sales by airlines on its revenue, which consistently reported on price beats generated from Singapore Airlines, Malaysia Airlines and Emirates.	

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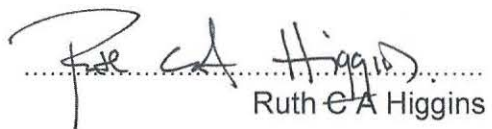
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Dated: 13 April 2016

  
 Justin T Gleeson SC  
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 Michael R Hodge

  
 Ruth CA Higgins

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