

MINISTRY OF TRANSPORT

98/3/10

11 March 1998

Paul Belin
International Air Services Inquiry
Industry Commission
Locked Bag 2
Collins St East
Melbourne 8003
AUSTRALIA

Dear Paul

I refer to our various communications regarding the Industry Commission's International Air Services Inquiry.

Please find enclosed the New Zealand External Aviation Policy Committee's submission to the Inquiry.

We appreciate your assistance in accepting our submission at this time.

Yours sincerely

John Macilree
Head International Air Services

SUBMISSION TO AUSTRALIAN INDUSTRY COMMISSION INQUIRY INTO INTERNATIONAL AIR SERVICES

The Industry Commission has been tasked with conducting a review of the regulatory arrangements for Australia's international air services, their effects and policy options.

This submission is intended for the information of the Commission, to provide an overview of the rationale behind New Zealand's international air transport policy, including the benefits we perceive accruing from that policy.

It also comments on the New Zealand - Australia air services relationship.

There has been informal contact between the Industry Commission and the New Zealand Ministry of Transport relating to regulatory issues associated with international air services matters.

New Zealand's Policy

New Zealand's international air transport policy is detailed in the document *International Air Transport Policy of New Zealand*, issued in February 1998. A copy of this statement is enclosed at Annex 1.

In summary, the policy has as its overall and determining objective the maximisation of economic benefits to New Zealand, including trade and tourism consistent with foreign policy and strategic considerations. New Zealand considers that this objective is best met through the negotiation of air services arrangements which minimise or remove constraints on the operation of international air services. This includes moves to conclude "open skies" air service agreements.

Policy Implementation

This policy is implemented by the External Aviation Policy Committee (EAPC), chaired by the Ministry of Transport and including representatives of the Ministry of Foreign Affairs and Trade, the Ministry of Commerce, the Treasury and the Department of Prime Minister and Cabinet. This group is responsible for considering all proposals to enter into negotiations on air services and seeking Government endorsement of these proposals. Input is also sought from the New Zealand Tourism Board and New Zealand international airlines.

In recent years, the EAPC has produced Strategic Action Plans for implementing the policy, outlining the priorities for negotiation and the specific issues needing to be addressed in each bilateral relationship. This has involved seeking the input of other

industry groups such as Tradenz, the Manufacturers Federation, and the Inbound Tour Operators' Council of New Zealand. These plans are confidential.

Policy Rationale

New Zealand's experience is that our wider economic interests are best met through removing as far as is possible, all barriers to trade. International air services play a key role in New Zealand's trade relationships with most of its major markets. Consequently, efficient, market-driven international air services are vital to New Zealand's trade success.

New Zealand's policy is predicated on the consideration that airlines are best placed to make decisions regarding the level of capacity and frequency offered in a market, and pricing options. The Government sees its role as one of putting in place an environment which creates maximum opportunity for airlines to respond to market requirements, developing prices and services that can give New Zealand consumers and business a better deal. Similarly, consumers and business in our bilateral partners would benefit from the additional competitive opportunities contained within liberal air services arrangements.

Consequently, we seek to ensure that airlines have maximum operating opportunities through making provision in our bilateral air services arrangements for open capacity and for the exercise of all traffic rights, including fifth, sixth, seventh and eighth freedom rights. This includes exercising traffic rights by way of code-sharing on any airline, including third-country airlines, which has the appropriate operating authorisations. (New Zealand has held the view that codesharing, including third-country code-sharing, is simply a form of exercising traffic rights. As long as all airlines involved held the appropriate traffic rights, code-sharing arrangements were permitted and did not require specific authority. However in recent years our experience with a number of bilateral partners has led to us seeking to ensure that this understanding is confirmed in all our bilateral air services arrangements.) Working in tandem with the international air transport policy, effective regulatory systems are in place to maintain a safe, competitive operating environment.

The 1997 "Open Skies" Air Transport Agreement between New Zealand and the United States provides an example of the benefits of this liberal approach to international air services. New Zealand airlines may now carry on service to all points within the United States. Previously they were restricted to carrying on service to Honolulu, Los Angeles and two other points to be nominated. This nomination process required six months' notice of a change of point.

While the arrangements in place prior to conclusion of the 1997 Agreement did provide some flexibility, particularly in respect of access via intermediate points and to points beyond, the 1997 Agreement creates maximum opportunity for New Zealand airlines to access the United States market itself. (United States airlines had this opportunity under the previous Agreement by way of linking their international and

domestic networks.) Points served by an airline are entirely at the discretion of that airline, and may be served when an airline identifies a market need or opportunity.

Air New Zealand has taken up this opportunity through code-sharing on its partner airline, United Airlines, between Air New Zealand's hub at Los Angeles and 8 destinations within the continental United States. This provides an online connection between those points and other points on Air New Zealand's network, increasing opportunities for the carrier to market New Zealand as a destination in those markets. Benefits to consumers of both passenger and freight services and capacity should arise from expanded network opportunities and competition resulting from a carrier taking up the opportunity to serve a market it was previously unable to serve. Removal of entry restrictions should also improve the contestability of international air services, i.e., the potential of entry by an additional carrier would exercise some discipline on the service and pricing activities of carriers already active in a market.

New Zealand has more recently signed open skies agreements with Singapore (a copy of this agreement is attached at Annex 11) and the United Arab Emirates, and negotiated such an agreement with Malaysia. It is hoped that, as well as providing for maximum opportunities to access those markets, these Agreements will create further opportunities to access markets beyond Singapore, Malaysia and the United Arab Emirates.

Airline ownership

New Zealand seeks to provide for open investment in airlines. The international airline industry is not only generally highly capital intensive but also cyclical making it a risky investment. Consequently, it is important to ensure that airlines are able to access the equity capital necessary to maintain their operations, something that can be difficult in a small capital market such as New Zealand.

While the bilateral system remains the overriding regulatory framework for international air services, States will continue to require some means to assure themselves that airlines utilising rights traded in bilateral agreements have a legitimate claim to do so. The International Civil Aviation Organisation has undertaken some work on replacing the "substantial ownership" test with one relating to an airline's "principal place of business and place of incorporation". New Zealand has been seeking, and will continue to do so, to have a formulation along these lines included in all its bilateral air services agreements.

New Zealand policy provides for an airline seeking designation as a New Zealand airline pursuant to our bilateral air services agreements to be up to 49% owned by non-New Zealand nationals, with up to 35% ownership by foreign airlines or airline interests in aggregate, and up to 25% ownership by a single foreign airline or airline interest. These limits are similar to those applied to Qantas.

Regional and Multilateral Liberalisation

New Zealand supports the pursuit of air services liberalisation through regional and multilateral tracks also.

APEC economies have committed themselves, in the 1994 Bogor Declaration, to achieving free and open trade and investment for industrialised economies by 2010, and for developing economies by 2020. This has the potential to have a significant impact on international air services liberalisation.

Similarly, New Zealand intends continuing its efforts to provide for the General Agreement on Trade in Services to have a broader application to air services than at present.

The New Zealand - Australia Air Services Relationship

Tourism is a significant contributor to both New Zealand's and Australia's GDPs. As such we believe it is in the best interests of both countries to ensure that there are as few constraints as possible on opportunities for tourists to access the Australasian market.

Australia is a major source of inbound visitors to New Zealand and vice versa. The current air services arrangements governing air services between the two countries provide totally for airlines of the two countries to operate services in response to market requirements (the Single Aviation Market Arrangements signed in 1996 refer).

However, our remoteness from other major markets requires us to ensure that New Zealand's attractiveness as a destination is maximised. Our experience is that a significant number of visitors to this country, particularly those from longhaul markets in North America, North Asia and Europe, combine a visit to New Zealand with one to Australia. The 1996 International Visitors Survey conducted by the New Zealand Tourism Board indicated that 58.5% of all third-country visitors to New Zealand visited Australia in the same trip. 67% of all U.S. visitors, 64% of all U.K. visitors, 64% of all visitors from Nordic countries, and 73% of South Korean visitors were in this category. Australia and New Zealand are perceived, in many of our major markets, to be a "single" destination.

This makes it imperative that airlines operating to and from both countries have the maximum opportunity to provide the service options travellers demand.

New Zealand considers that the current limit on capacity which may be operated by New Zealand airlines between third countries and Australia (the equivalent of 12 x B747 services per week), and vice versa, unnecessarily limits the potential of those markets to contribute to tourism receipts, and limits potential opportunities for related employment growth, in both Australia and New Zealand. This is to the detriment of both economies.

Furthermore, as the current constraint limits the extent to which New Zealand airlines are able to participate in those markets, consumer options are also limited. Consequently, achieving a greater exchange of beyond rights with Australia remains a key objective for New Zealand.

Similarly, in negotiating with third countries, the lack of access to trans-Tasman traffic for those third-country airlines is often cited as a constraint impacting on the viability of any service they may wish to operate to New Zealand in conjunction with services to Australia. Potential consumer benefits resulting from new entrants into the market are consequently foregone.

Conclusion

New Zealand's international air transport policy is focussed on achieving the best outcome for New Zealand from our international air service arrangements. This involves removing, as far as is possible, all barriers to trade in air services. In this way, consumers should benefit from commercially-oriented airlines taking up opportunities to offer services and prices in response to market requirements. As the incidence of liberalised air services arrangements increases, so too should consumer benefits arising from the increased opportunities made available in those arrangements.

New Zealand External Aviation Policy Committee
March 1998