
From: O'Connor, Sam
Sent: Thursday, 3 June 2021 5:13 PM
To: Leach, Wayne (AU)
Cc: Finch, Nathan (AU); Waters, Jessica (AU); Jones, Gavin; Kolacz, Miriam
Subject: RE: UniProjects - commencement of consultation [SEC=OFFICIAL] [ACCC-ACCCANDAER.FID2876176]

OFFICIAL

Dear Wayne

In order to assist the ACCC in its consideration of UniProjects Pty Limited's request for interim authorisation, there are a few questions we wish to clarify, which we have outlined below.

As we are endeavouring to deal with UniProjects' request for interim authorisation by mid-June, we request that you provide a response to these queries by **COB Monday 7 June**.

How the arrangements between the parties and the travel management provider will operate

Section 3.2 of the application states that:

- students can use the online booking system provided by the travel management provider "to book seats on the flights – and at the prices secured by – the travel management provider", and
- UniProjects and the Universities will enter Back-to-Back Contracts that will, among other things, "set out how the universities will... (a) contribute to the travel management fees payable by the universities through UniProjects to the travel services providers".

1. Does this mean that:

- a. the travel management provider will only charge students for the cost of the flight (at the price at which the travel management provider has secured it from the airline) and not charge them additional fees/charges for the services the travel management provider provides, and
- b. UniProjects and the universities will cover all other fees payable to the travel management provider for its services (pursuant to the Back-to-Back Contracts)?

2. If that understanding is incorrect, please explain what fees or charges beyond the cost of the flight at the price at which the travel management provider has secured it from the airline, students will be required to pay to the travel management provider.

3. If students will be required to pay and fees or charges to the travel management provider other than the cost of their airline ticket:

- a. will the level of any of these other fees or charges be set by the travel management provider and, if so:
- b. how will the level of these fees and charges be determined, and
- c. could you please describe any factors which you consider will limit the prices that the travel management provider can charge for these services?

Clarifying the scope of collaboration

The [Commonwealth Protocol](#) referenced in the application requires States/Territories to work with education institutions to design an International Student Arrivals Plan, which, in addition to detailing the use of commercial or charter flights, is required to include the details of things such as:

- quarantine and compliance arrangements for each stage (including details of planning for hotel and/or industry-led quarantine)
 - internal transport logistics including on arrival, and any transfers or domestic travel after quarantine, and
 - duty of care, monitoring of students' health and wellbeing/pastoral care.
4. Please confirm whether the conduct the subject of the application for authorisation is intended to extend to collaboration between UniProjects and the universities in relation to services such as the above (whether that be collaboration by using the jointly appointed travel management provider or otherwise).

Please note that subject to consideration of any request that any material provided in your response be excluded from the public register, a copy of this email and your response will be placed on the public register.

Please do not hesitate to contact me if you have any questions.

Kind regards
Sam

Sam O'Connor

Graduate | Competition Exemptions | Mergers, Exemptions and Digital Division
Australian Competition & Consumer Commission
Level 4 | 271 Spring St, Melbourne VIC 3000
T: [REDACTED]

www.accc.gov.au

The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.

Proposed collaboration to establish an international student corridor to Australia

7 June 2021

To Gavin Jones, Miriam Kolacz and Sam O'Connor, ACCC
From Wayne Leach and Jessica Waters

Dear Gavin, Miriam and Sam

1 Response to ACCC's questions

This letter sets out UniProjects Pty Limited's (**UniProjects**) response to the questions set out in the email from Sam O'Connor to King & Wood Mallesons dated 3 June 2021.

Fees charged by the travel management provider

ACCC questions

The ACCC has asked whether the travel management provider will charge returning students only the cost of the flight (at the price at which the travel management provider has secured the seat from the airline), or whether travel management provider will also charge students any additional fees for the services it provides.

The ACCC has also asked whether these additional fees, if any, will be payable by students or by the relevant participating university.

UniProjects' response

In addition to the cost of the flight (i.e. the price the travel management provider has secured from the airline), students will pay an International Booking Fee.

This fee, which is payable per ticket, will be paid to the travel management provider by each student to cover the following types of additional services provided by the travel management provider:

- manifest management;
- ticketing, itinerary and invoice documentation;
- manual checks that the name entered by the student in the online booking system matches their passport;
- unlimited inbound email and telephone inquiries, to be addressed by a dedicated Operations Team of the travel management provider;
- communications with students regarding logistical arrangements (e.g. when to get to the airport);
- management of payments and refunds' and
- liaising with various government bodies and authorities (within and outside Australia) to facilitate travel (e.g. travel exemptions and transit conditions).

The level of additional services provided to students reflects the unique circumstances of the Project and the significant complexity of arranging international travel, given the global pandemic and resulting border closures and required levels of engagement with a range of government agencies. The level of individual attention and care for students is also necessary to minimise risks

such as students missing flights, snap international borders closures and any other action that is beyond the participating universities' control.

[Confidential]

As set out in UniProjects' application for authorisation, there is no requirement for any student to book their airfares through the travel management provider. Provided the student has obtained a travel restriction exemption from the Department of Home Affairs, they are free to attempt to obtain airline seats through any other available channel. They are also free to seek to coordinate individually with the necessary government agencies to ensure that all requirements for entering Australia are satisfied. However, given the complexities of the legal approval process and the significant level of complexity in managing all communications and logistical requirements, this would be very difficult. In addition, given the existing strain on Government resources managing approvals and other processes for entering Australia, this would be a very poor and inefficient outcome, which could significantly undermine the Government's objective of opening up an efficient international student corridor into Australia.

UniProjects also considers it very unlikely that continuing students would be able to secure lower-priced airfares – or indeed lower-priced and more efficient travel management services – without the benefit of the Project. Indeed, this level of coordination, expertise and efficiency is one of the main reasons for, and the key benefit of, the Project.

Scope of the collaboration

ACCC question

The ACCC has asked whether the conduct the subject of the application for authorisation is intended to extend to collaboration between UniProjects and each of the participating universities – either via the travel management provider or otherwise – in relation to services such as

- quarantine and compliance arrangements for each stage (including details of planning for hotel and/or industry-led quarantine);
- internal transport logistics including on arrival, and any transfers or domestic travel after quarantine; and
- duty of care, monitoring of students' health and wellbeing/pastoral care.

UniProjects' response

UniProjects has not at this stage been advised of the outcome of the tender process being undertaken by the NSW Government in relation to managing quarantine, transport logistics and any student wellbeing requirements during the initial quarantine period (see <https://www.tenders.nsw.gov.au/?event=public.scheme.showArchived&RFTUUIID=3E178749-AECF-E64F-52BC8491F542DAEC>).

UniProjects anticipates that this information will be available in the coming weeks, and that each participating university may be asked to sign an agreement with the NSW Government in relation to these issues.

This is in addition to the steps that each participating university will implement independently to monitor and assist with student wellbeing, as informed by an overarching *Student Health, Wellbeing and Transition Support Plan* developed by the universities.

2 Confidentiality

This letter contains information that is confidential to UniProjects and the participating universities and is provided to the ACCC on a confidential basis. UniProjects requests that the ACCC treats this information as confidential information.

UniProjects considers that the confidential information relates to the ACCC's core statutory function of administering and enforcing the *Competition and Consumer Act 2010* (Cth) (**CCA**). Accordingly,

UniProjects considers that the information comprises “protected information” as defined by section 155AAA(21) of the CCA.

UniProjects understands that:

- there will be no restriction on the internal use, including future use, the ACCC may make of the confidential information consistent with its statutory functions;
- the confidential information may be disclosed to the ACCC’s external advisors and consultants (for example legal, economic and industry advisers) on the condition that each such advisor or consultant will be informed of the obligation to treat the information as confidential; and
- the ACCC may disclose the confidential information to third parties (in addition to external advisors and consultants) if compelled to do so by law or in accordance with section 155AAA of the CCA.

3 Further questions

If the ACCC has any further questions, UniProjects would be pleased to assist.

Yours sincerely



**Wayne Leach | Partner, Head of Competition Law, Australia
King & Wood Mallesons**

Level 61, Governor Phillip Tower, 1 Farrer Place, Sydney NSW 2000

T [redacted] | M [redacted] | F [redacted]
[redacted] | [Partner profile](#) | www.kwm.com

King & Wood Mallesons in Australia is a member firm of the King & Wood Mallesons network.
See www.kwm.com for more information.