

Freehills



12 March 2002

Our ref MIA
Phone (03) 9288 1937
Email martin_algie@freehills.com.au
Matter no 20772055
Doc no Melbourne\004012504

Mr Tom Fahy
Regional Director
Australian Competition & Consumer Commission
Level 35
The Tower
360 Elizabeth Street
MELBOURNE VIC 3000

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| FILE NO |
| DOC |

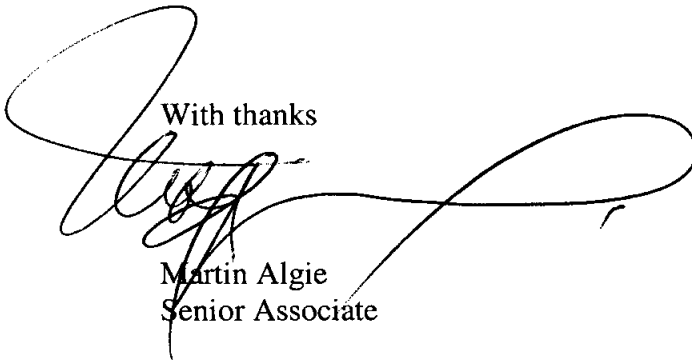
By Courier

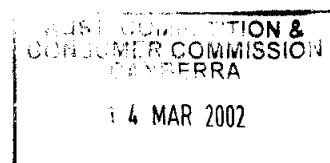
Dear Mr Fahy

Air New Zealand offer to Diners Club members

We enclose a letter to Mr Tim Grimwade and Notification in respect of the above. We ask that you date stamp the Notification with today's date and forward it to Mr Grimwade in Canberra for processing.

With thanks


Martin Algie
Senior Associate

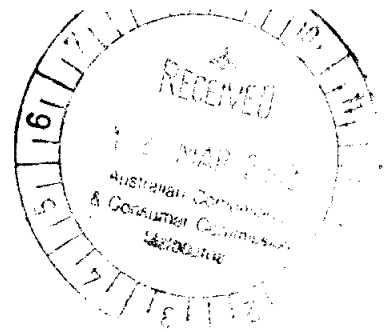


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SYDNEY MELBOURNE PERTH CANBERRA BRISBANE HANOI HO CHI MINH CITY SINGAPORE Correspondent Offices JAKARTA KUALA LUMPUR

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Freehills



12 March 2002

Phone 9288 1026
Email martin_algie@freehills.com.au
Matter no Office
Doc no Melbourne\003997899

Mr Tim Grimwade
General Manager Adjudication
Australian Competition & Consumer Commission
470 Northbourne Avenue
DICKSON ACT 2602

Dear Mr Grimwade

Air New Zealand offer to Diners Club members

We enclose a completed Form G and a cheque for \$1,000 in respect of the Notification of the abovementioned conduct.

Air New Zealand has entered into an arrangement with Diners Club Pty Ltd, under which it will participate in Diners Club's loyalty program. Air New Zealand intends offering Diners Club members free membership to its frequent flyer program (*Air Points Program*) plus a bonus 1000 frequent flyer points (called "*Air Points*"). This offer will be promoted exclusively to Diners Club members and is expected to be open for acceptance until the end of June 2002.

We submit that this does not amount to a breach of section 47(6) of the *Trade Practices Act (TPA)* because the offering of a discount or benefit (the free membership and the bonus 1,000 *Air Points*) is not on *condition that* people wishing to take up the offer join Diners Club. The proposal nevertheless risks breaching section 47(7) of the TPA given the broad interpretation of the phrase "refusing to do an act" in section 4(2). It is on that basis that Air New Zealand now lodges this Notification.

Air New Zealand submits that the ACCC should not issue a Notice under section 93(3A) of the TPA. The proposal will not result in any public detriment. Diners Club members are not forced in any sense to take up the offer and non-Diners Club members are left unaffected. The public benefit of this proposal arises from the opportunity to participate in a frequent flyer program on discounted terms. The large number of Diners Club members have the opportunity to save the normal *Air Points Program* membership fee and receive 1,000 frequent flyer points for nothing.

If you have any queries, please do not hesitate to contact Martin Algie.

Yours faithfully
FREEHILLS

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FORM G

Regulation 9

[Front of Form]

COMMONWEALTH OF AUSTRALIA

Trade Practices Act 1974 - Sub-section 93 (1)

EXCLUSIVE DEALING:

NOTIFICATION

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with sub-section 93(1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to in sub-section 47(2), (3), (4), (5), (6) or (7), or paragraph 47(8)(a), (b), (c), or (d), of that Act in which the person giving notice engages or proposes to engage.

1. (a) **Name of person giving notice:**

Air New Zealand Limited

(b) **Short description of business carried on by that person:**

Provision of international passenger air services

(c) **Address in Australia for service of documents on that person:**

Freehills
101 Collins Street
MELBOURNE VIC 3000
Ref: MIA

2. (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:**

The provision of free membership to the Air New Zealand frequently flyer program (called the "*Air Points Program*") and the provision of 1,000 bonus frequent flyer points (called "*Air Points*").

(b) **Description of the conduct or proposed conduct:**

Air New Zealand offering to provide and providing the following exclusively to Diners Club cardholders (referred to as "Diners Club members"):

- (1) free membership to the Air New Zealand *Air Points Program*; and

(2) 1,000 bonus *Air Points*.

3. (a) **Class or classes of persons to which the conduct relates:**

Any person seeking to join the Air New Zealand *Air Points Program*.

(b) **Number of those persons:**

(i) **At the present time:**

Unknown.

(ii) **Estimate within the next year:**

Unknown.

(c) **Where number of persons stated in Item 3(b)(i) is less than 50, their names and addresses:**

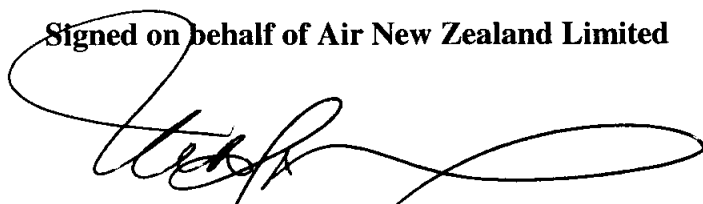
Not applicable.

4. **Name and address of person authorised by that person giving this notice to provide additional information in relation to this notice:**

Mr Martin Algie
101 Collins Street
MELBOURNE VIC 3000

Dated this 12th day of March 2002

Signed on behalf of Air New Zealand Limited



(Signature)

MARTIN ALGIE, 1

(Full Name)

SOLICITOR, FREEHILLS

(Description)