



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2001/1563
Your Ref: KWS:WWP:304693814
Contact Officer: Jaime Norton
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21 February 2005

Ms Wendy Peter
Partner
Allens Arthur Robinson
530 Collins Street
MELBOURNE VIC 3000

Dear Ms Peter

**Re: Third line forcing notification N40466 lodged by Swinburne University of
Technology (SUT)**

I refer to the above notification lodged with the Australian Competition and Consumer Commission (ACCC) on 30 October 2001. I understand that you represented Swinburne University of Technology (SUT) in this matter.

The notification involves SUT requiring all students enrolled in its Bachelor of Technology (Aviation) and Diploma of Technology (Aviation) courses to undertake practical flight training with General Flying Services Pty Ltd, any other training school approved by SUT or with a flight training school wholly owned and operated by SUT.

Legal immunity conferred by the notification commenced on 13 November 2001.

As with any notification, the ACCC may at any stage remove the immunity provided by this notification if the likely benefit to the public from the notified conduct would not outweigh the likely detriment to the public resulting from the conduct.

The ACCC has received a complaint in relation to notification N40466 suggesting that the third line forcing conduct does not result in the public benefits claimed by SUT.



The purpose of this letter is to request further information that will assist our assessment as to whether the immunity conferred by notification N40466 should continue. In particular, it would be appreciated if you could provide the following information:

1. Is SUT still engaging in the conduct covered by the notification?
2. At the time notification N40466 was lodged with the ACCC, SUT submitted the conduct provided the following public benefits:
 - It ensures students receive a high standard of training as part of their qualification. SUT submitted that the technical equipment and facilities available at GFS were not, at that time, available at other flying schools.
 - The maintenance of high training standards will improve the likelihood of employment within the Australian aviation industry.

In relation to training standards, the ACCC understands that the Civil Aviation Authority (CASA) requires all flying schools in Australia to follow a Day VFR syllabus which aims to standardise aviation training on a national basis. In addition, CASA also tests and approves Chief Flying Instructors, Authorised Testing Officers and Chief Pilots to operate flying schools and conduct flight tests.

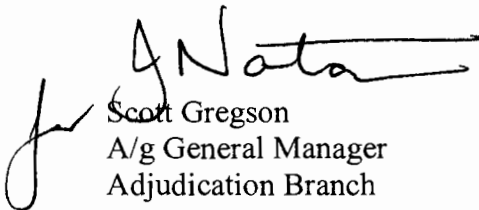
- i. In light of industry regulations, please provide further information in relation to the public benefits that result from the notified conduct.
 - ii. Does SUT consider there are any other public benefits that arise from the notified conduct?
3. SUT previously advised the ACCC that the primary factor it takes into account when approving other flight training schools for its aviation courses is whether the school is accredited by Qantas. On this point, it is our understanding that Qantas does not have an accreditation scheme for flight training schools. Is this understanding correct?
4. Notification N40466 referred to other flight training schools that might be later approved by SUT.
 - i. Please describe the steps a flight training school should follow to apply to become a nominated flying school with SUT?
 - ii. Has SUT received any such applications and/or approved flight training schools, other than General Flying Services, to conduct flight training?
5. SUT previously advised the ACCC that it was considering applying to CASA for an Air Operators Certificate to become a licensed flying school operator and establishing a wholly owned company, Swinburne Aviation Ltd, to provide practical training for SUT aviation students.
 - i. Please outline any progress made by SUT towards lodging an application for an Air Operators Certificate and the establishment of its own flying school.

Finally, a concern has also been raised with the ACCC that SUT may have provided advice at university open days that students wishing to be employed by Qantas must complete SUT's degree program, whereas this may not be the case. Prior to making further enquiries, I seek comment from SUT as to the representations it makes in relation to the requirements to be employed by Qantas.

It would be appreciated if you could arrange for the ACCC to receive a response to this, and to all other issues raised in this letter by 14 March 2005.

Should you have any questions in relation to this matter please contact Ms Jaime Norton on (03) 9290 1885 or at jaime.norton@acc.gov.au.

Yours sincerely


Scott Gregson
A/g General Manager
Adjudication Branch