

28 February 2005

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Mr Scott Gregson
Acting General Manager
Adjudication Branch
Australian Competition & Consumer Commission
PO Box 1199
DICKSON ACT 2602

Dear Mr Gregson

**International Air Transport Association - Passenger Agency Programme
Further application for minor variation to Authorisation A90791 - request for interim
authorisation**

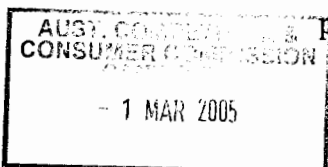
We acknowledge receipt of your letter dated 8 February 2005 faxed to us on 16 February 2005.

We are instructed to request the ACCC to reconsider its refusal to grant an interim authorisation in relation to the minor variation application lodged on 23 December 2004.

Your letter states that the ACCC considers that in the present circumstances it is not appropriate to grant the interim authorisation. The reason given is said to be concerns about compliance with one of the conditions attaching to the authorisation.

Our client wishes to make the following points in support of its request for the ACCC to reconsider its decision:

- the application was made in accordance with Authorisation A90791 and in particular paragraph (3) of that Authorisation;
- the amendments to which the application relates improve the IATA Passenger Agency Programme by clarifying and streamlining certain of the procedures. The changes are beneficial to accredited agents, airlines and consumers because, for instance, they liberalise the rules relating to satellite ticket locations. This is a benefit to the public;
- by declining interim authorisation the ACCC is holding up the introduction in Australia of changes to the Programme that benefit all parties;
- the subject matter of this application is unrelated to IATA's compliance with the condition set out in paragraph 10.2(3) of Determination A90791, and it is inappropriate for the ACCC to link the two matters. There are other remedies provided in the *Trade Practices Act 1974* to deal with non-compliance with



CBR3_405045_1 (W97)

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conditions, in appropriate cases. The ACCC has so far, for good reason, decided not to exercise those rights. It should not use this application as an avenue for dealing with that separate matter;

- the ACCC was aware, when it contemplated the condition prior to making the Determination in 2002, that this was not a condition with which IATA could comply. Compliance required airlines to vote in favour of changes to the Programme, which the airlines have so far declined to do;
- there are technical and confidentiality issues with the condition which would make it difficult to obtain airline approval to comply with the condition, even if the airlines were to agree to the principle of providing reasons if an airline in general concurrence declines to provide an accredited agent with traffic documents or carrier identification plates; and
- the ACCC is aware that IATA is actively addressing the condition and actively seeking to resolve the matter of compliance with the condition with the ACCC.

If, contrary to this submission, the ACCC is not prepared to grant an interim authorisation to allow these beneficial changes to be introduced in Australia we are instructed to request that the minor variation application itself be expedited. In that respect we note that the application was lodged on 23 December 2004.

Yours faithfully
MINTER ELLISON



Russell Miller
Partner

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Your reference: C2005/93