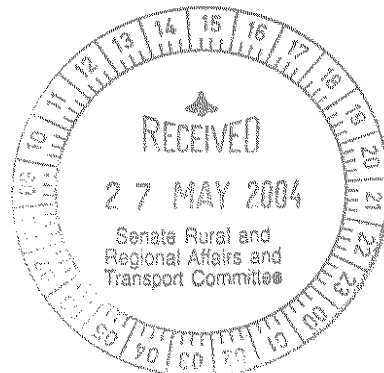


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26 May 2004

Senator the Hon Bill Heffernan  
Chair  
Rural and Regional Affairs and  
Transport Legislation Committee  
Parliament House  
CANBERRA ACT 2600



Dear Senator Heffernan

***Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand and Other Matters) Bill 2003 (the "Bill")***

I refer to the current reference on the above Bill before the Senate Rural and Regional Affairs and Transport Legislation Committee.

Having read the transcript of evidence at the hearing of the Committee on 12 May 2004, wherein an array of subjects of importance to Virgin Blue were canvassed by members of the Committee, we now wish to raise a number of matters for consideration by members as they give further consideration to the Bill. We apologise for not having forwarded an earlier submission, but we hadn't fully appreciated the sweep of interests by members of the Committee until we had read the Hansard.

Whilst Virgin Blue is not opposed in principle to a Bill of this kind and whilst we see some advantages in the proposed mutual recognition scheme, we do have certain reservations.

On the one hand, we agree with the proposition that the Bill will enable a number of efficiency improvements in the area of aircraft maintenance and fleet flexibility. These advantages were traversed by Qantas in its submissions and include the option of "swapping out" short haul aircraft with other aircraft flying longer sectors in Australia to achieve maintenance efficiencies. In addition, the simple fact of fleet flexibility where aircraft may be introduced from different regions to cope with changing demand also presents commercial advantages on both sides of the Tasman.

On the other hand, Virgin Blue's concerns with the Bill lie in three (3) key areas:

***1. Mutual recognition does not go far enough***

CASA and CAA have determined that there is a level of equivalency between the safety standards and systems governing each of Australia and New Zealand but that certain differences do exist. The regulatory authorities have determined that these differences do not affect the parity, in overall terms, between the two (2) regulatory systems. Virgin Blue believes this outcome does not do enough to address key differences and that the two regulators should set their sights higher to achieve parity at a higher level. To cite just a few examples:

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(a) **Low Oxygen Warning.** In Australia the ATSB having recommended the implementation of aural warnings for low oxygen situation. Australia currently has visual warning of low oxygen. New Zealand permits either aural or visual warnings.

(b) **Low Visibility Operations and ETOPS Approvals.** Australia and New Zealand currently manage the approval for Low Visibility Operations and ETOPS differently. This results in a situation where an Australian operation may not have approval compared to the same operation by New Zealand operations. This can present significant operating differences.

(c) **Flight and Duty Times.** Flight crew duty times are managed differently in each country.

Addressing these variances will go a good deal further to introducing operational flexibility between fleets to produce the economic and social benefits anticipated from Mutual Recognition. Much more can be achieved if each of the variances is addressed with a view to identifying which of the two approaches is the appropriate standard to apply. This would involve the commitment of both CASA and CAA to work together to agree the most appropriate standard in each case where the regimes differ.

On this basis, we believe the principles of mutual recognition, though of benefit, fall short of the ultimate aim of reducing complexity and removing administrative and operational burdens on operators in Australia and New Zealand.

## 2. *Jurisdictional convenience*

Put simply, Virgin Blue's second concern is that the Bill will introduce the prospect of carriers taking advantage of the jurisdictional differences for commercial gain to the detriment of one or the other of the states of Australia or New Zealand.

At first glance, that commercial advantage may lie in setting up operations in New Zealand so as to capitalise on the lower cabin crew ratios. This is not to say that the New Zealand cabin crew ratio is inadequate. Indeed, it appears the New Zealand ratio reflects the majority practice around the world and Virgin Blue would certainly be of the view that a move to the New Zealand ratio should be considered as long as issues such as minimum crew per exits were considered.

As in point 1 above, this variance, along with the other key variances identified by CASA and CAA, be addressed and agreed by the two regulators so that the one standard applies. This would guard against carriers (particularly new entrants to the market who may not yet hold an AOC in either country) taking an opportunistic approach consisting of (in its most crude form) a race toward the cheapest regulatory option. This opportunism may be at the expense of Australian jobs.

Such an approach would be detrimental to the climate of industrial relations in Australia and jeopardise the viability of Australia's highly specialised aviation maintenance industry due to the export of jobs to New Zealand in this field. Levelling the playing field both generally as set out in 1 above and in respect of the key differences which have a direct impact on commercial viability is, in Virgin Blue's view, a necessary task to be accomplished before this Bill should be passed.

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### 3. Air Security Officers ("Sky marshals")

Currently in Australia as a matter of government policy implemented by the Director of Australian Protective Services, sky marshals are deployed randomly on certain Australian domestic flights. This program is viewed by the government as an important plank in aviation security in the face of terrorist threat.

Under the program, the two major trunk operator airlines in Australia are required to carry armed sky marshals at no charge. This represents the loss of one revenue seat for every flight on which sky marshals are present. Aside from cost issues though, Virgin Blue is also concerned that certain flights might be considered easier 'targets' if there was any sort of inequity. Virgin Blue seeks confirmation that, should the Bill proceed to be enacted, New Zealand airlines operating within Australia domestically will be required to enter into an identical arrangement with Australian Protective Services such that armed sky marshals are required to be carried to the same extent as the existing domestic operators.

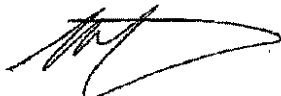
### Conclusion


In summary, Virgin Blue (whilst not intrinsically opposed to the Bill) believes that the two regulators should be supported by both governments in an effort to ensure key differences are addressed between the two systems. We have given a few examples of those herein, but we believe there to be many others. The scope of the project would need to be widened to allow the regulators to identify major variances which fall outside a certain threshold of acceptable difference, including those differences which leave the industry open to commercial inequities. Those identified items could then be addressed to achieve a level of harmony between the two systems.

Again, we thank the Committee for receiving our submission and confirm that we are available to give further evidence if required.

Should you wish to follow up on any matters raised in this submission, please contact Virgin Blue's government relations advisers, John O'Callaghan, on 6239 5600 or 0438 627 255 or Stephen Carney (6239 6595 or 0411 7011 91).

Yours sincerely



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Virgin Blue Airlines Pty Limited