



11 July 2007

The Secretary  
Rural and Regional Affairs and Transport Committee  
PO Box 6100  
Parliament House  
**CANBERRA ACT 2600**

Dear Ms Radcliffe

I refer to your letter of 25 June 2007 to our Chief Executive Officer, Brett Godfrey, inviting Virgin Blue to make submission on the *Aviation Legislation Amendment (2007 Measures No. 1) Bill 2007* to the Senate Standing Committee on Rural and Regional Affairs and Transport.

Virgin Blue is pleased to be able to participate in this process and has prepared a written submission to the Committee. Please find enclosed find a copy of our submission on this Bill.

Should the Committee require any further information or clarification regarding our submission or wish to arrange for representatives of Virgin Blue to appear before it, then please do not hesitate to contact me on (07) 32955079 or 0403 046474.

Yours sincerely

**Mike Thomas**  
Government Relations Advisor



VOTED  
WORLD'S  
BEST LOW  
COST  
AIRLINE  
2004  
& 2005

**SUBMISSION TO THE  
SENATE STANDING COMMITTEE ON RURAL AND  
REGIONAL AFFAIRS AND TRANSPORT**



***AVIATION LEGISLATION AMENDMENT  
(2007 MEASURES NO. 1) BILL***

While being broadly supportive of the Bill, Virgin Blue is strongly opposed to Item 21.

As stated in the Explanatory Memorandum:

*Item 21 clarifies that, apart from certain screening and clearing requirements, privileges and immunities conferred under the Commonwealth Acts specified in subsection (1) upon certain dignitaries, diplomats and other persons are not affected by the Act or regulations. Subsection (2) has been inserted to allow the Act or regulations to set out requirements for the screening and clearing of dignitaries which will not be limited by the Acts referred to in subsection 131(1).*

Under the current provisions of Section 131 of the *Aviation Transport Security Act 2004* the Act does not affect any immunity or privilege that is conferred upon a person by either the *Consular Privileges and Immunities Act 1972*, the *Defence (Visiting Forces) Act 1963*, the *Diplomatic Privileges and Immunities Act 1967*, the *Foreign States Immunities Act 1985* or any other Act.

The amendment contained in Item 21 – sub-section (1) of this Bill simply clarifies that subject to the new Section 131, which includes a sub-section (2), does not affect any immunity or privilege that is conferred upon a person by the Acts listed immediately above.

However the proposed sub-section (2) allows for either the Act or regulations to establish requirements for the screening and clearing of dignitaries which will not be limited by the Acts referred to in sub-section (1).

Virgin Blue is opposed to exempting any person from the screening and clearing requirements pursuant to the regulations made under Section 44 of the *Aviation Transport Security Act 2004*.

Based on discussions between representatives of Virgin Blue and the Department of Transport and Regional Services it is our understanding the Government has granted exemptions from screening requirements to specific categories of diplomats, Government officials, dignitaries and their respective spouses and minor children.

Virgin Blue contends that by exempting any person from the screening and clearing requirements for entry into sterile areas and zones of security controlled airports and for travel onboard prescribed air services the Government has weakened the security framework for aviation within Australia and potentially exposed the wider travelling public to an increased security risk.

Virgin Blue bases this view on our understanding that while persons granted exemption from screening and clearance, such persons must also comply with all other requirements of the *Aviation Transport Security Act 2004* and *Aviation Transport Security Regulations 2005*, as far as they relate to weapons and prohibited items.

Neither airports, nor airlines are specifically empowered under the legislation to authorise or permit any person entry to sterile areas or on-board prescribed aircraft whilst they are in possession of weapons or prohibited items as defined under the current legislation. However the only way that airports or airlines can be assured that a person is not in possession of such items is to screen and clear them.

Virgin Blue strongly believes that the approach adopted by the Government introduces security vulnerabilities and risks to the security framework and therefore the travelling public. Clearly if a person, who is exempt from screening and clearance under legislation, can enter a sterile area or board an aircraft whilst in possession of a weapon or prohibited item, either intentionally or inadvertently, then this poses a risk to security.

Another related issue pertains to the discovery of such items in a security controlled area or on-board an aircraft.

Should a person exempt from screening and clearance be discovered in possession of a weapon or prohibited item this may well result in a security incident, which in the worse case scenario, may result in the evacuation of a sterile area, causing disruption and delays to air services and terminal operations.

As an airline operator Virgin Blue would contend that neither airports nor airline operators, can or should be held responsible for the conduct or actions of such persons, where such an exemption is solely reliant on trust and good will. It may also follow that airports or airlines who suffer direct or indirect consequential economic losses, as a result of such incidents, may exercise their right to recover such losses from the Government.

A remedy to this situation could see an extension to the exemption from screening and clearing of a person to also allow them to possess and carry weapons and prohibited items within airport security areas and zones and on-board prescribed air services. However Virgin Blue would be strenuously opposed to such an exemption.

As previously stated Virgin Blue is strongly opposed to Item 21 and the exempting of any person from the screening and clearing requirements pursuant to the regulations made under Section 44 of the *Aviation Transport Security Act 2004*.

Virgin Blue believes that exempting any person from the screening and clearing requirements for entry into sterile areas and zones of security controlled airports and for travel onboard prescribed air services is weakening the security framework for aviation within Australia and potentially exposes the wider travelling public to increased risk.