

AANZ-SH

17 September 2001

Minister of Transport

### **Statutory Management – Impact on role of Kiwi Shareholder**

Our legal advice is that if a Statutory Manager were appointed to take over the affairs of Air New Zealand, that Manager would probably also be legally entitled to exercise the rights given to the kiwi shareholder by the company's Constitution. (The statutory management legislation does not expressly contemplate a kiwi share and accordingly is not entirely clear on this aspect).

Regardless of this, it is clear that the statutory management legislation will give the Manager full control over the management of the company. Accordingly, it is important that the Manager be a New Zealand national in order to continue the airline's ability to access traffic rights. All New Zealand's bilateral agreements have a criterion of 'effective control' by New Zealand nationals to qualify a New Zealand airline for designation.

Under the Civil Aviation Act you are the International Air Services Licensing Authority for New Zealand airlines. Air New Zealand and Freedom are both licensed by you for international service.

The Act enables you to implement government policy on ownership and control. To this end, the New Zealand international licences have included a condition "to exercise the rights granted by this licence, the licensee must be substantially owned and effectively controlled by New Zealand nationals."

In the event that the Kiwi shareholder's rights are assumed by a Statutory Manager, under the Civil Aviation Act you have the power to amend the licences to include more specific requirements relating to the eligibility of airlines to exercise the traffic rights, if this is in the 'public interest'. In effect, this would enable you to restrict purchase of the international airline operations of the company by foreign nationals.

We are taking legal advice as to whether you could restrict the Statutory Manager's ability to sell the operations to the highest bidder, as opposed to a quality bidder of lesser amount. Your vehicle for this could be a licence requirement authorising you to exercise judgement over an applicant's ability to carry on the proposed service satisfactorily.

### **Status report on Air New Zealand operations**

Air New Zealand advises this morning that it is operating as normal and that there has been no negative impact on forward bookings at this stage. Air New Zealand is trying to work with Qantas with respect to the carriage of connecting Air New Zealand passengers within Australia.

### **State of global air transport**

The terrorist actions in the United States last week have impacted severely on worldwide air transport services with sharp declines in passenger numbers already experienced and expected over the next few months leading to dramatic losses in revenue. Experts predict a period of high instability with a number of airlines probably collapsing.

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Deputy Secretary Air Services