



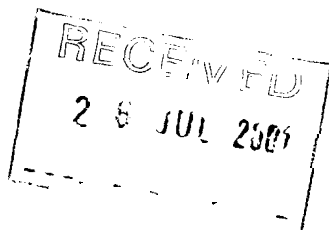
Office of Hon Paul Swain

MP for Rimutaka
Minister of Commerce
Minister of Communications
Minister for Information Technology
Associate Minister of Finance

Associate Minister of Revenue
Associate Minister of Energy
Associate Minister of Justice
Associate Minister for Land information

25 JUL 2001

Mr John Belgrave
Chair
Commerce Commission
P O Box 2351
WELLINGTON



Dear Mr Belgrave

AIRPORTS PRICE CONTROL INQUIRY: COMMERCE AMMENDMENT ACT 2001

I am writing to clarify the implications of the Commerce Amendment Act 2001 (the Amendment Act) for the airports price control inquiry.

As you are aware, the previous Government required the Commission to report, under the former section 54(1) of the Commerce Act 1986 (the Act), on whether airfield activities supplied by Auckland, Wellington, and Christchurch International Airports should be controlled under the Act. The initial requirement was made, by notice in writing to the Commission, on 27 March 1998 and was subsequently amended on 26 May 1998 and 29 July 1999.

Since the original requirement, the Amendment Act has come into force. This Amendment Act has amended Parts IV and V of the Act, which are relevant to the inquiry.

For the avoidance of doubt, I am withdrawing the previous requirement for a report made under the former section 54. I hereby replace that requirement with a request under the new section 56 of the Act that the Commission report to me on whether or not an Order in Council under the new section 53 should be made to control airfield activities of the above-referenced airports. Included with this request is the requirement under the new section 54 that the Commission advise me on the thresholds that would assist me in assessing whether airfield activities should be controlled under the new section 52.

In making this request, I do not intend to make any significant change to the substance of the former requirement. I simply wish to make clear that the Commission should apply the post-amendment provisions of the Act in conducting this inquiry and reporting to me. To avoid any doubt, however, rather than incorporating by reference the terms of the former requirement, I will set out in full the matters on which I require the Commission to consider and report to me on. Specifically, the Commission must report to me, pursuant to the new sections 54 and 56 of the Act, no later than 1 August 2002, on the following matters:

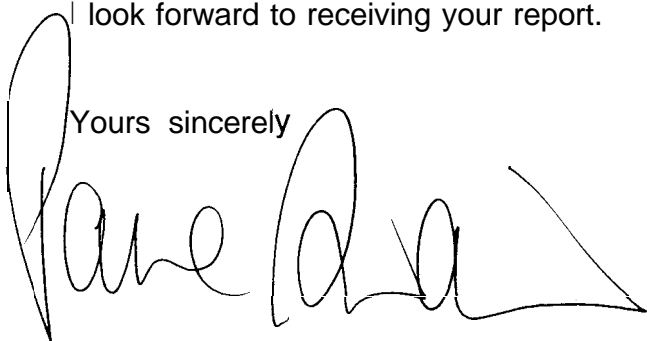
- a whether there is evidence that airfield activities, as defined in the Airport Authorities Amendment Act 1997, provided by the three major international airports (Auckland, Wellington and Christchurch) are supplied or acquired in a market in which competition is limited or is likely to be lessened; and it is necessary or desirable for these goods or services to be controlled in the interests of persons acquiring the goods or services (whether directly or indirectly) or as the case may be, suppliers; and
- b whether market conditions are such that the Commission believes that I should recommend to the Governor-General that she make an Order in Council under section 53 of the Act invoking controls over airfield activities at the three major international airports.

Specific matters on which I require the Commission to consider and report to me on are:

1. Whether controls should be introduced for airfield activities at one or more of the three major international airports;
2. If the Commission is of the view that controls should be introduced, to which (i) components of the prices, revenues, or quality standards; (ii) regions, areas, or localities in New Zealand; (iii) quantities, qualities, grades, or classes; and (iv) different persons or classes of persons, should controls be applied?
3. What conditions, tests, or thresholds does the Commission consider would be useful in judging whether (i) airfield activities are or will be supplied in a market in which competition is limited or likely to be lessened; and (ii) it is necessary or desirable for airfield activities to be controlled in the interests of acquirers or suppliers of airfield activities.
4. If controls were introduced (i) what form of controls would the Commission apply; (ii) and why; (iii) how would the Commission operate these controls; and (iv) what time and/or in what conditions should controls end?

I look forward to receiving your report.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Swain', with a long horizontal flourish extending to the right.

Hon Paul Swain
Minister of Commerce