

Wellington
J2773

14 June 2001

Hon Paul Swain
Minister of Commerce
Parliament Buildings
WELLINGTON

Dear Minister

AIRPORTS PRICE CONTROL INQUIRY – COMMERCE AMENDMENT ACT 2001

On 26 May 1998, the then Minister of Commerce, Hon John Luxton, requested 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 Commerce Amendment Act 2001 (the Amendment Act) has amended the provisions of Parts 4 and 5 relevant to the Commission's airports inquiry. The amendments came into force on 26 May 2001. The former section 54 (under which the May 1998 request was made) has been overtaken by new sections 54 and 56.

As mentioned to you at our meeting on Monday last, the Commission has sought advice from the Solicitor-General on the effect of the Amendment Act on the airports inquiry. The advice is that the position is not clear cut, but that it is likely a Court would find the Commission entitled to respond to the May 1998 request as if it were made under the post-amendment provisions of the Act. However, the Solicitor-General suggests that it would be a sensible precaution to have you confirm that the Commission should treat his request as if it were made under the post-amendment provisions. Please find enclosed a copy of the Solicitor-General's advice for your information.

The Commission is to release its draft report on 29 June 2001. It would be much appreciated if you could confirm, before that date, that the Commission should apply the post-amendment provisions in conducting this inquiry and reporting to you.

Yours faithfully

John Belgrave
Chair

Copy: Mark Steel, Ministry of Economic Development