

10 Customhouse Quay, PO Box 993, Wellington 6140, New Zealand.

Tel +64 4 499 5999. Fax +64 4 472 7111. DX SP20204.

Offices also in Auckland & Christchurch. www.chapmantripp.com

PARTNERS, PRINCIPALS AND CONSULTANTS

D S Alderslade	P J England	L Jones	D J Parker	W J Strowger
K Anderson*	S H Foote*	A J Keenan	J L Parker*	M C Sumpster*
M G Anderson	S L Franks•	B R Kidd*	R I Parker	P C Sumpster*
N A Anderson*	N E Gray•	J A Knight*	L J Partridge*	R F Wallis
J M Appleyard	M M Harper*	C S N Lawgun*	C M V Plunket	N R S Wells
M D Arthur*	J J Hassan	A F Lester*	A S G Poole	T G R Williams
P W Bennett	V L Heine*	S B Lowe	P M Reese	R J Wilson
H M Bowie	L I Hinton•	B L McArthur	V J Rive	M W Woodbury*
B J Brown	J E Hodder	R B McClintock	A S Ross	A N C Woods
R A Bycroft	S A Hodge	A G McDonald	D M M Ross	C C J Wright*
M J Carroll*	J L Holland	J A McKay	W A Sandston	M E Yarnell
G T Carter*	G A Hughes*	F D McLaughlin	B A Scott	A W Young
D J Cochrane	B H W Hutchinson•	P A McLeod•	J G M Shirtcliffe	
M K Corse-Scott*	E R Jack*	H C McQueen•	J G Sproat	
G W David	P R Jagose	A J Nicholls	V H Stace•	
C M Elliffe	S M Janissen	M R Nicholson*	C J Street•	

Principals and Consultants do not share Partners' liabilities for the firm.

** Principals • Consultants*

Our ref: Grant David / Sam Cooper

Direct dial: +64 4 498 4908

Email: grant.david@chapmantripp.com

by email

16 October 2006

John Macilree
Principal Adviser, Air Service
Ministry of Transport
PO Box 3175
Wellington

AIR NEW ZEALAND/QANTAS APPLICATION – COUNTERFACTUAL

- 1 Thank you for advising us that the public version of the Applicants' second tranche of responses to the Ministry's questions are now on the Ministry's website and inviting us to comment on those responses by 3rd November. We will do so.
- 2 However, we are concerned to note, once again, that the Applicants' views of the counterfactual have been largely withheld.
- 3 As we explained in our letter of 8 September, establishing the counterfactual is a critical step in undertaking competition analysis, as it forms the benchmark against which any changes arising from the proposed conduct are to be measured. Hence, it is imperative, both for transparency of the process and to ensure the rigour of the Ministry's resulting analysis, that the Applicants' assertions can be fully examined and contested by interested parties. There can be no proper consultation without information.

- 4 We therefore urge that the contents of paragraph 16 of the Applicants' response be released to us immediately under the Official Information Act. We believe that the withholding of this vital information warrants review by the Ombudsman. We ask you to reconsider that withholding to avoid us having to go to the Ombudsman, which obviously will lead to further delay.
- 5 We look forward to hearing from you as soon as possible.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Grant David', is written in a cursive style.

Grant David
Partner