

**COMMERCE COMMISSION**

P. O. Box 5031, Raiwaqa, Suva

Level 1, Garden City, Carpenter Street,
Raiwai, Suva**Chairman:** Dr Mahendra Reddy**Phone:** 3372 178**Fax:** 3372 389**Email:** sbaba@commcomm.gov.fj**Website:** www.commcomm.gov.fj5th March, 2010.**Press Statement****Re: Review of the Control of Substantial Market Power for Pacific Sun's and Other Operators in the Domestic Market**

The Commerce Commission ("the Commission") is an independent statutory body whose objectives are to promote effective competition and informed markets; encourage fair-trading; protect consumers and business from restrictive trade practices and control prices of regulated industries and other markets where competition is lessened or limited.

Since the coming into force of the Commerce (Amendment) Promulgation 2008, section 36E of the Commerce Act 1998 obliges the Commission to control substantial market power where the Commission has reason to believe that the advancement of the objectives of the Commission are not adequately assured by prevailing market conditions. In controlling market power, the Commission must:

- (a) identify and review relevant product and service markets of the industry in question;
- (b) evaluate the level of existing or likely competition in such markets, including taking into account substitution effects of inter-modal competition; and
- (c) determine whether, and the extent to which, an insufficiency of existing or likely competition in such markets is likely to impede the advancement of the objectives of the Commission to ensure a competitive market;

If the Commission determines that an insufficiency of existing or likely competition in a relevant market is likely to impede the advancement of the objectives of the Commission, the Commission is obligated to identify the licensees having a substantial degree of market power in that market. Subject to a consideration of the burden of regulation, the Commission must impose, maintain or amend specific regulatory obligations on those licensees having a substantial degree of market power in a relevant market where it considers that such action would be reasonably likely to advance the objectives of the Commission.

Clause 2 of the Explanatory Note to the Commerce (Amendment) Promulgation 2008 provides additional guidance by highlighting that:

"The Commission will be responsible for identifying whether a licensee has substantial market power in the product or services provided. If there is someone with such substantial market power, then the Commission may impose conditions or vary the obligations in the licence to ensure the person with such market power does not continue in that position".

Following concerns raised by the general public on the conduct of domestic Airline Industry, in particular, Pacific Sun, particularly with respect to service pricing, the Commission wishes to examine the domestic airline market in relation to the objectives of the Commission.

In light of the above, the Commission now wishes to begin the process of examining whether Pacific Sun or any other operator has Substantial Market Power in the domestic market. In particular, the Commission would appreciate responses to the following issues:

- a) Is there reason to believe that the advancement of the objectives of the Commission are not adequately assured by prevailing market conditions for the domestic airline market?
- b) Does Pacific Sun or any other operator hold substantial Market Power with respect to providing service in the domestic market?
- c) What are some of the benchmarking data for domestic airlines operations in similar markets?
- d) Will the benefits reasonably anticipated to users as a result of the regulation of the domestic market outweigh the burden reasonably anticipated to be placed on Pacific Sun?
- e) Having regard to the Commerce Act 1992, as amended, what specific regulatory obligations should the Commission impose should Pacific Sun or any other operator hold Substantial Market Power with respect to its operations in the domestic market?

The Commission now wishes to invite written submissions from Pacific Sun, Northern Airline Charter Services Ltd, other stakeholders and the general public on the above outlined issues.

The current consultation period will run from Saturday 6th March, 2010 to 19th March, 2010, during which time the Commission welcomes interested parties to submit to it written submissions on any of the issues raised in, or related to, this document. The Commission wishes to invite Pacific Sun to make submission as well.



Dr Mahendra Reddy
Chairman