



20 May 2004

Senator Marise Payne
Chair
Senate Legal and Constitutional Legislative Committee
Parliament House
CANBERRA ACT 2600

Via Email

Dear Senator Payne

Re: Civil Aviation Amendment (Relationship with Anti-discrimination Legislation) Bill 2004 (the "Bill")

I refer to Dr Doug Hartley's letter of 15 April 2004 inviting Virgin Blue to lodge a written submission to the Senate Legal and Constitutional Legislative Committee in relation to the Bill. We are grateful to the Committee for allowing us the opportunity to comment on the Bill.

As the Committee will appreciate, Virgin Blue must comply strictly with a number of statutory and regulatory provisions in providing air travel services to the Australian public. As a company, Virgin Blue is committed to providing safe and accessible air travel to the Australian public. Our safety record and the maintenance of our safety standards and procedures are matters of critical concern to us, and they are matters on which Virgin Blue will not compromise. The Civil Aviation Safety Authority (CASA) and the Department of Transport and Regional Services (DOTARS) have correctly identified that there are some aviation safety standards which appear to be inconsistent with anti-discrimination legislation. One of the many challenges for Virgin Blue is to marry these aviation safety standards with all of our other obligations, such as compliance with anti-discrimination legislation.

Virgin Blue has numerous policies and procedures in place to ensure that our services are accessible to as many people with disabilities as possible. However, we often encounter scenarios where our regulatory obligations appear inconsistent with our obligations under anti-discrimination legislation. As identified in the Explanatory Memorandum to the Bill, there is a regulatory requirement on airlines when carrying disabled persons to ensure that all reasonable precautions are taken to prevent hazards to other occupants. However, Virgin Blue does not consider that its obligations stop there. As a company, Virgin Blue believes that we must take all reasonable precautions to ensure the safety of our staff and also the safety of the disabled persons as well. These safety obligations, which must not be compromised, can lead to situations where individuals may claim that anti-discrimination legislation is being infringed, thereby placing Virgin Blue in a difficult position of having to balance what appear to be inconsistent Commonwealth laws and regulations.

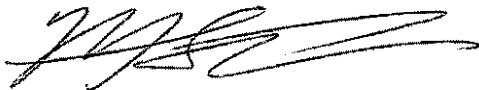
On the recruitment side of our operations, Virgin Blue encounters situations where we are faced with the possibility of discrimination actions from employment candidates as a result of our obligation to ensure that our staff members do not suffer from any condition which could render them likely to be unable to perform assigned duties safely. This applies not only to the recruitment of pilots or engineers, but also to flight attendants and other positions where safety is a paramount aspect of the role.

As mentioned above, Virgin Blue is committed to providing safe and accessible air travel to the Australian public. In fulfilling this commitment, however, Virgin Blue often encounters situations where we must balance our anti-discrimination obligations with our regulatory obligation to ensure the safety of our aviation operations. We believe that this balancing function reduces the efficiency with which we run our operations. Furthermore, we believe that this balancing function is more appropriately performed by the Governor-General on advice from CASA and DOTARS, who in turn have formulated a position based on analysis of all competing issues and consultation with the aviation industry and anti-discrimination representative bodies.

We consider that, by empowering the Governor-General to make civil aviation regulations that may contain provisions that are inconsistent with anti-discrimination legislation where that inconsistency is necessary for aviation safety, the Bill will play a crucial role in ensuring that aviation safety in Australia is not compromised and also ensure that the role of balancing aviation safety with anti-discrimination legislation is performed by the appropriate body. We are therefore supportive of the Bill.

Should you wish Virgin Blue representatives to appear before the Committee to provide additional information on the Bill, we would be willing to do so.

Yours sincerely



Miso Stojkovski
Legal Counsel
Virgin Blue Airlines