

Consumer Council of Fiji



Submission to

The Commerce Commission On The

Review of the Control of Substantial Market Power for Pacific Sun and Other Operators in the Domestic Market

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1.0 Introduction

The Consumer Council welcomes the Commerce Commission's decision to probe the domestic air services sector which we believe is long overdue. The Council acknowledges the appropriate response taken by the Commission towards long-standing consumer and general public concerns over the state of the country's domestic air services. The Council has for the past two years received both registered and unregistered complaints from consumers, the general public and even businesses, regarding the deterioration of services by Pacific Sun and the general state of domestic aviation. Domestic air services are vital to Fiji's development as it is geo-physically made up of islands. While sea transportation has provided the vital links between the islands, air transportation has become equally important particularly in the 21st century where there is much higher demand for faster modes of transport and communication. Thus, like other modes of transportation which have been subjected to regular scrutiny and review, the Council sees no reasons why domestic air services should be treated any differently.

2.0 Scope of Submission

The Council wishes to limit its comments to the status of Pacific Sun as the dominant player in domestic air services. The Council will also discuss some issues regarding the non-operational Air Fiji as its demise had an impact on the domestic air services sector and the state of competition. We do not wish to make specific comments on the role of on any other operators such as Northern Airline Charter Services, although we may make indirect references to these other players in our discussion. The reason being, that these other players have limited impact on the market, in terms of regular scheduled services and volume of passenger flights. These smaller airlines provide mainly charter services, unlike Pacific Sun which provides scheduled daily services and have higher passenger volumes. One of the main concerns of the Council is that a monopoly situation has emerged with Pacific Sun controlling domestic airline services. From the consumer perspective an absence of competition has undoubtedly resulted in a deterioration of services and Pacific Sun's indifference to consumer complaints.

3.0 Government Policy on Domestic Air Transport

In trying to address the issues relating to conditions in the domestic airline market it is important to keep in mind the overall policy objectives of the Government for this sector. Domestic air transport features in the Government's policy for the Transport Sector. The Government has stressed that transport is a vital component of the economy contributing to approximately 10 percent to GDP.¹ The transport sector includes land, sea and air transport. Government's overall policy is "to provide efficient transport services at reduced costs to enhance access to services and markets". Promoting and improving competition and efficiency in the sector is part of government strategy in the sector. One of the Government's key strategies in air transport under its Sustainable Economic and Empowerment Development Strategy (SEEDS) 2008-2010 is "*Encourage domestic and regional aviation competition to benefit Fiji's travelling public, tourism and export section*".²

¹ Ministry of Finance & National Planning, Sustainable Economic and Empowerment Development Strategy (SEEDS) 2008-2010: A Better Fiji For All. '5.4 Information and Telecommunications. p. 66.

² *Ibid*, p.72

The 'Key Performance Indicators'³ for domestic air transport this are:

- *3 or more airlines with unsubsidised, scheduled domestic flights;*
- *Passenger seat km on domestic flights restored to 1999 levels of 110 million by 2009 and increased to not less than 150 million by 2011 from 73.1 million in 2005*

It is evident that the Government is serious in bringing about competition and efficiency in domestic air services and intends to ensure that “3 or more airlines” are servicing domestic routes. The Council sees this performance indicator as one of the crucial factors to be considered by the Commerce Commission because it is absolutely tied in with the Commission's objective of promoting effective competition and instituting necessary redress where competition is lessened or limited. The Government has also admitted there is an issue with domestic airlines - “whether domestic airlines should have the flexibility to set airfares and rates based on market forces.”⁴

4.0 Pacific Sun – From Consumer Relief to Pain

Pacific Sun's entry to the domestic market was a welcome relief for consumers and businesses, not only in terms of competition, but promises of bigger and more modern aircraft compared to the ones provided by Air Fiji, Sun Air and other smaller players. The airline acquired Sun Air (Pacific) Limited's business and assets on 1st February 2007 and commenced sale of tickets on 22nd January after the formal approvals process from the Civil Aviation Authority of the Fiji Islands (CAAFI) and the Air Transport Licensing Board (ATLB). Pacific Sun raised the quality of services for the busy and lucrative Nadi/Nausori/Labasa routes, especially with its ATR42 aircraft with higher capacity and faster travel times. However the honeymoon period appeared to be over in the latter half of 2008 and in 2009 as flight delays, cancellations and resulting consumer frustration began to emerge. These problems and Pacific Sun's attitude towards consumer complaints got worse as Air Fiji's demise became apparent towards the end of 2008 and eventual cessation of operations on 1 May 2009.

5.0 Air Fiji's Departure – Competition to Monopoly

Pacific Sun had entered the market as Air Fiji began to experience problems. Air Fiji had been plagued by aging aircraft and a major crash with fatalities in 1999 had lowered consumers' trust in its safety record. The airline had been on the domestic scene for some 40 years beginning operations in 1967. At one stage it held substantial market power and was able to starve off competition from other players like Sun Flower Airlines and Sun Air. In 1997 it doubled its fleet and at one stage had a total of 12 aircraft with a total of 154 seats making it Fiji's largest domestic carrier.⁵ Tour operator, Pacific Island Travel noted that Air Fiji carried an average of 140,000 passengers annually.⁶

3 *Ibid*, p.72

4 Ministry of Finance & National Planning, Sustainable Economic and Empowerment Development Strategy (SEEDS) 2008-2010: A Better Fiji For All. '5.4 Information and Telecommunications., p.67

5 http://www.pacificislandtravel.com/fiji/flights/air_fiji.html

6 *Ibid*

Air Fiji's demise became apparent as a result of bad management, high fuel costs and aging aircraft began to affect the airline in 2007. The airline was already in decline when Pacific Sun entered the market. Apart from the fuel and aging aircraft, the company was already suffering losses and owed payments. Air Fiji's departure in 2009 not only left a gap in domestic air services, it also gave Pacific Sun virtual monopoly control over the high volume and lucrative Suva/Nadi/Labasa routes. Pacific Sun also gained control of the other island destinations and today stands as the only air link between these islands and the mainland.

5.0 Problems of Lack of Competition

The following are persistent problems that have continued to plague domestic air services. These issues are far from resolved and the Council is of the view that Pacific Sun's monopoly status has given the airline reason to be complacent. Most consumer complaints remain unresolved due to the airline's non-action and lack of effective enforcement by the responsible agencies. The Council firmly believes that Pacific Sun's indifference to consumer complaints is sourced from its monopoly status where it has absolutely no interest to address the complaints as consumers have no other choice for air transportation. This monopolistic status is causing a high level of complacency and consequently the overall efficiency and quality of domestic air services.

5.1 Pacific Sun's Compensation Policies -

The Council finds that all the current domestic airlines do have proper compensation policies in regards to disruption of services due to aircraft mechanical failures, flight re-scheduling and other unnatural causes. Compensation here denotes both cash and non-cash awards to consumers designed to provide justified relief to losses suffered due to flight disruptions. It must be noted that disruptions to flight schedules caused losses to consumers as a delay or cancellation can trigger a chain reaction in terms of disruptions to personal/business travel schedules, extra transportation costs, missed international flights, loss of productivity and personal stress. Pacific Sun has not been able to understand fully the implications of any flight disruptions caused by unnatural incidents such as aircraft mechanical problems. According to a letter to the Council dated 23rd April, 2009 regarding a complaint case against the airline, Pacific Sun's General Manager, Manoa Kamikamica stated:

“Pacific Sun's policy provides that when a passenger is disrupted due to mechanical disruptions, Pacific Sun steps in and takes care of any meals and accommodation costs which the passenger has to incur as a result of disruption. For weather related disruptions, Pacific Sun issues a letter for Travel Insurance as the disruption is an act of God. Assistance may extend to on-ward travel but this depends on the circumstances. It however does not extend to any other consequential costs as advised above.”⁷

Pacific Sun (like its parent company Air Pacific) only provides meals and accommodation if passengers demand but the policy on compensation have not been widely publicised.

⁷ Letter: Complaint of Personal Loss Due to Flight Cancellation, 23/04/10, on a complainant for Pacific Sun flight FJ31 Nausori – Labasa, on 27/12/08.

In January this year, Pacific Sun customers were subjected to poor treatment by the airline. A 10.30am (Nausori – Nadi) flight cancellation on January 14 saw customers receive notification via a text message. No details of what the airline would offer as compensation or an alternative arrangement was forthcoming. However, Pacific Sun put the affected passengers in a non-air conditioned bus for Nadi minus provisions for meals or water. It would have been cheaper if the customers travelled by air conditioned coach at \$25 one-way instead of being provided a non-air conditioned bus for the airline ticket price of \$75-\$145. To add insult to injury, the passengers were informed at Nausori Airport that they would receive compensation. However, this was not the case as passengers were refused refunds or any other form of compensation. The airline argued that they transported passengers via road and the money cannot be refunded. Consumers choose to travel by airlines for convenience and to save time. Compensation and alternatives provided as a result of flight disruptions or cancellation must match consumer expectation.

Pacific Sun has not provided a proper compensation policy to the Council (which was requested by the Council at a meeting in Suva) or made such information publicly available for the benefit of its customers. With the airline plagued by mechanical problems and flight disruptions, a firm and transparent compensation policy is a must to safeguard consumer interests.

5.2 Customer Penalties versus Non-Compensation

There is unjust and unfair business practice currently followed by Pacific Sun (and Air Pacific). When services are disrupted where the airline is at fault, customers and businesses incur losses in monetary terms. Pacific Sun does not provide any fair compensation monetary or otherwise to consumers. However, if customers want to make alterations to their tickets they have to pay penalties and these changes have to be made 24 hours before the flight. Customers are given a 24-hour window to change their tickets plus a \$30 charge. Flight cancellations and delays by Pacific Sun can happen in a matter of minutes, yet the airline does not provide a similar cash return to customers. If Pacific Sun thinks it is okay for them to charge for alterations in tickets then it is only fair that the airline also compensate consumers in cash for any delay in flight caused as a result of its fault. Consumers go through a lot of problems because of flight delays. They are left stranded at the airport and forced to endure the long wait often with amenities at the airport closed. Many also miss on important functions and meetings because of this or miss connecting flights. Most of the time consumer grievances go unnoticed and unacknowledged by Pacific Sun. It is only under media or pressure through other agencies that Pacific Sun issues a general apology. The Council believes that this attitude of Pacific Sun should not be tolerated. It is time that the airline compensates its customers for their loss and inconvenience as is the practice elsewhere in the world.

5.3 Complaints against Pacific Sun

Consumer complaints against Pacific Sun appeared to increase substantially after Air Fiji ceased operations on 1 May 2009. The Council received 11 registered (e-mail, on-line, complaints form) complaints and hundreds of complaints via phone call against Pacific Sun in 2009. In 2010, Council received 5 registered complaints. The Council also noted concerns raised by consumers through alternative means such as through public discussions (talk back shows on radio) in the newspapers and other media.

It must be duly noted that problems with the airline has become so common that consumers have become apathetic. Flight delays have become almost a daily occurrence and redress by Pacific Sun virtually non-existent that consumers do not bother to go through the hassle and costs of lodging official complaints.

Some of the most common and persistent problems encountered are:

- Combining Flights (4pm flights combined with 6pm flight- passengers wait from 3 pm to catch 4pm flight which eventually leaves at 6pm)
- No fair compensation for delayed and cancelled flights;
- Costs incurred by customers due to delayed flights;
- Delayed flights where customers are not properly informed;
- Flights not departing on schedule as noted in passenger tickets and other information;
- Mishandled or missing luggage; and
- Misleading advertisement.

We provide here a sample of some of the problems relating to Pacific Sun services as reported in the media:

Sample of Media Reports on Pacific Sun's Problems

Headline	Issue	Media
Plane's tyre bursts on landing	PS aircraft tyre bursts on landing at Savusavu Airport	Fiji Times, 02/06/08
Called-off flights spoil wedding	Wedding disrupted after Nadi-Savusavu flight cancelled. Flight was delayed three times before cancellation	Fiji Times, 27/04/08
Airline sorry for fare ad	PS apology for misleading advertisement	Sunday Times, 26/10/08
Late flights raise safety concerns	Safety issues after flight delays to Savusavu Airport	Fiji Times, 13/03/09
Trouble in the skies	Engine problem on take-off, Nadi-Taveuni Flight FJ123 (Twin Otter)	Fiji Times, 15/04/09
Cancelled flight leaves passengers stranded	PS said not responsible for providing accommodation for flights cancelled due to bad weather (Labasa)	Fiji Times 19/05/09
Labasa flights cancelled due to mechanical problems	Labasa trip cancelled, ATR42 mechanical problems	Fiji Sun 15/07/09
Domestic flight	Letter to Editor complaint over flight delay (Labasa)	Fiji Times 23/07/09
High airfares	Price increases, tax more than 25% of fare	Fiji Sun 17/0/09
Pacific Sun cancels 6 flights	Mechanical problems ATR42, Nadi/Suva/Labasa flights cancelled	Fiji Daily Post 30/10/09
Airline apologises for delay	Mechanical problems ATR42	Fiji Times 12/01/10

We also annex the complaints handled by the Council between 2008 and 2010 – see attached for reference.

5.4 Fleet Size

Pacific Sun's fleet consists of 8 aircraft⁸ – 2 x ATR 42-500 (44 seats), 3 x Britten Norman BNZ2A Islanders (6 seats) and 3 x De Havilland DHC-6 Twin Otters (14-16 seats). This is smaller compared to Air Fiji's 12 aircraft when it was in operation. The ATR42s were initially marketed by Pacific Sun as “modern” and “new” aircraft. In fact the two aircraft were bought second-hand from Air Mauritius.

⁸ http://www.pacificsun.com.fj/default.aspx?sid=PS_AboutPacificSun&pid=PS_fleetinformation

The ATR42s are rostered for the domestic Suva/Nausori/Labasa routes and regional service. The airline has flights to 10 domestic destinations, 3 covered by the ATR42s, while the remaining 7 is catered for by the 6 smaller aircraft. The ATR42s also service regional routes to Tonga, Vanuatu, and Tuvalu. It appears that Pacific Sun is pressuring its fleet with the number of destinations and flights. **Flight disruptions are bound to occur when you have too few planes servicing too many routes.** And the safety risks are elevated when Pacific Sun compensates for mechanical failures on its smaller aircraft by chartering other domestic airlines' planes. The Consumer Council received a complaint in January this year on the Kadavu/Suva route. A flight scheduled for Kadavu was operated by another company's aircraft which unfortunately was not big enough to load all passengers and baggage scheduled to travel on that flight.

6.0 Regulatory and Redress System

A source of the current problems with the domestic air services is the lack of enforcement by the regulators. The Council is concerned that there are no effective consumer redress systems in place to cater for consumer complaints against airlines (both domestic and international). This is evident from the Council's experience with complaints against airlines and was clearly apparent in the case of Air Fiji.

The issue of Air Fiji customers who had paid up tickets prior to the airline's cessation of operations opened the Council's eyes to the fact that consumer redress is sorely missing from the current air services environment. After the airline ceased operations in May 2009, customers with paid-up tickets were virtually left in the dark as there was no avenue for them to take their grievances with the company. Air Fiji had closed shop and the complainants had no way of contacting the airline's representatives to claim a refund. Since Air Fiji terminated its services, a total of six (6) complaints against the company were registered with the Council. The monetary value of the complaints amounted to more than \$3000. The company took the money, issued the ticket but no service was provided to the ticket holders. As the airline had virtually disappeared, the Council resorted to calling on Air Fiji's shareholders and management to refund their customers. The Council called for the Air Transport Licensing Board (ATLB) to be more vigilant as complaints against the new monopoly holder, Pacific Sun, was increasing.

6.1 ATLB and its Powers

The Council held a meeting with the Board Chairman of ATLB, Mr Ernest Dutta and the Director of Civil Aviation, Mr Akuila Waradi on 2 February 2010 in an attempt to better understand the role ATLB played in addressing consumer complaints as well as to ascertain the level of regulation and enforcement for airlines. It was evident that licensing and regulation were heavily placed on safety, mechanical and related aviation issues pertaining to the operations of airlines in the country. There is no effective consumer redress system within the industry for customers or users of airline services.

This is despite the *Civil Aviation (Licensing of Air Services) Regulation* makes reference to **section 11** (*matters to be considered by licensing authority when granting, etc, licence*) to the following crucial elements when an airliner is issued a licence to operate:-

- (c) “...the degree of efficiency and regularity of the air services...”
- (e) “...the extent to which it is probable that applicant will be able to **provide a satisfactory service** in respect to safety, **continuity, regularity of operation, frequency, punctuality, reasonableness of charges and general efficiency.**”

It appears then that the airline licence is pre-condition on the above before it is considered by the licensing authority or ATLB. It also alludes to the fact that ATLB has the discretionary powers to determine, grant and revoke the licence if these conditions are not met or breached even after the licence has been issued. The Regulations is clear under s11 that the licensing authority “...shall have regard to coordination and development of air services **generally with the object of ensuring the most effective service to the public while avoiding uneconomical overlapping and generally to the interest of the public...**”(emphasis provided).

Clearly the complaints registered at the Council and in the mass media indicate that the issue of flight delays, cancellations, compensation, etc, are not addressed by the airliner or the regulator, ATLB. Even though the public has been voicing grievances continuously through various medium, the ATLB has not taken heed of the complaints through a self-initiated inquiry. It was only when the Council received repeated complaints, then it was compelled to flag the issue to the Board for redress. During the discussion with the Board, it became clear that the Board itself has limited its role to the determination, granting and endorsement of fare increases even though section 11 gives it extensive powers to look into consumer related issues and concerns. In fact, there is virtually no ATLB activity at the post-licensing phase where the Board needs to maintain vigilance on customer service or care, flight delays, cancellations and appropriate redress to consumers.

There also appears to be a general hesitation on the part of ATLB to revoke or suspend licence for poor service delivery, particularly in line with section 11 (c) and (e) on the rationalisation that there is very limited operators in the market (in reality we have only one domestic operator to date) and consumers who are presently enjoying the domestic service will be totally deprived of any service. While there is some justification that the service is important and essential given that there is no other player in the market (something is better than nothing), the fact remains that the overall consumer expectation for efficient and reliable service has been compromised and if the service is sub-standard, is this justification a fair one? The Council is of the view that the service can be improved with strategic planning through reducing current routes to alleviate the stress on the service delivery, time and fleet management. In addition, the ATLB admitted that the revocation of licence can happen if there is “enough evidence” and the Council counter-commented that complaints was one form of tangible evidence to at least initiate an investigation, which was not happening. Further, the Board tried to reason that once the operator has entered the market, they are given enough latitude to sustain their economic well-being as a lot of financial and technical investment goes into setting up an airline operation. Revoking licence is something that they say is approached with caution. Again, whilst this is a reasonable justification, it does not mean that the airline is given a freedom to abuse consumers by depriving them of their right to efficient service for which they are paying a good sum of money. Generally speaking, the lack of will to regulate and police the operations of the airline industry is apparent in the way ATLB’s board members are comprised. There appears to be a make-up of former employees of airline industry on the Board and this could be a reason there is reluctance to investigate the complaints.

6.2 Role of CAAFI (Civil Aviation Authority of Fiji Islands)

CAAFI has also a representation on the ATLB. It is rather a strange arrangement in terms of the role played by this regulator in the airline industry who is more concerned with technical or economic regulation in area of safety of the carrier mainly. What is even more worrying is that both ATLB and CAAFI have not grasped their powers and authority under their governing laws and so there appears to be a level of confusion that was clearly displayed at the meeting held on 2 February 2010. If the Council was not given clear answers or indication what was the role played by both authorities in regulating the airline industry, then perhaps it was time re-look at the governing legislations that gave powers to these bodies with a view to demarcating their statutory roles and functions for better service delivery.

The Council believes that weak regulatory measures in the aviation industry pertaining to customer service, flight delays, compensation etc., is prevalent due to lack of will and confusion between CAAFI and ATLB as to who is tasked to vigilantly regulate the actions of the airliner, which then is a gap that can be filled in through Commerce Commission's powers to regulate monopoly affairs in the marketplace. Commerce Commission should be in a position to then determine whether Pacific Sun is a monopoly provider, if so, is it engaging in (un)fair trade practices? In turn, it can assist in providing redress and relief to consumers through some regulatory measures on Pacific Sun (and Air Pacific).

7.0 Competition in Domestic Air Services

Historically competition in domestic air services has never been achievable. While Air Fiji had maintained some 40 years of presence, it should be noted that two airlines – Sunflower and Sun Air – have been unable to keep up to the competition. Air Fiji is the most recent addition to that list. The government is clear that it wants at least three or more airlines with unsubsidised scheduled domestic flights. This scenario is yet to be achieved. Domestic aviation services are costly especially with fuel and maintenance costs.

Competition is most unlikely unless you have a combination of regulation and subsidisation to allow both smaller and bigger players to co-exist. It is evident Air Fiji demise is partly due to its inability to keep up with the competition from Pacific Sun which is virtually Air Pacific in a different name. It is in the best interest of consumers, businesses, regulators and government to maintain players in the market. The Council hopes that the government and policymakers develop effective policies and strategies to ensure a viable aviation industry. Open competition is not good as it has the potential of eliminating smaller players which in turn results in a monopoly situation such as the scenario we are facing now. So an effective policy is warranted to make domestic airlines services viable.

8.0 Commerce Commission Issues/Questions

The following are the Council's responses to each of the issues raised by the Commission for this review.

8.1 Is there reason to believe that the advancement of the objects of the Commission is not adequately assured by prevailing market conditions for the domestic airline market?

The Council believes that the advancement of the objects of the Commission are not adequately assured by the prevailing market conditions for the domestic airline market. Pacific Sun now holds monopoly control over domestic airline routes. The cessation of Air Fiji's operations in May 2009 has left Pacific Sun with no competitor. As discussed in Section 5 above, problems in the market have been exacerbated by Pacific Sun's indifference to consumer complaints which is a natural consequence of monopoly power.

8.2 Does Pacific Sun or any other operator hold substantial Market Power with respect to providing service in the domestic market?

The Council is of the view that the domestic airline market is dominated by one single player – Pacific Sun. It should be noted that the airline's dominant position had come about as a direct result of Air Fiji's demise and cessation of operations. Pacific Sun now holds substantial market power in the provision of regular/scheduled commuter flights between the country's principal domestic airports. It also holds a dominant position over the provision of air cargo and mail services between these destinations.

A monopolistic situation is prevailing. A monopoly does not simply exist because of exclusive licensing or privileges under protectionist state laws such as that afforded to the corporatised telecommunications departments under the 1989 Post and Telecommunications Decree. Monopolies are characterised by a lack of economic competition for the good or service that they provide and a lack of viable substitute goods. These can happen in both regulated and unregulated markets. For Fiji's domestic air services sector, a monopoly in the form of Pacific Sun has emerged. Pacific Sun had gained monopoly status within two years of its establishment as Air Fiji ceased operations. Monopolisation is the process by which a firm gains persistently greater market share than what is expected under perfect competition and limited competition.

It must be noted that Pacific Sun's status as a monopoly was not only consolidated following Air Fiji's demise, but also a result of it being a subsidiary of international carrier Air Pacific. Air Pacific with its larger size in terms of capital and infrastructure is in a position to keep its baby (Pacific Sun) afloat when the domestic airline industry faces economic hardship.

The position of Northern Air Services is insignificant as it is currently providing mostly charter services.

8.3 Will the benefits reasonable anticipated to users as a result of the regulation of the domestic market outweigh the burden reasonably anticipated to be placed on Pacific Sun?

The Council firmly believes that benefits reasonably anticipated to consumers/users as a result of the regulation of the domestic market outweigh the burden reasonable anticipated to be placed on Pacific Sun. The regulation of the domestic market should serve to protect consumers and at the same time provide the incentive to Pacific Sun to maintain high standards and efficiency. The history of Air Fiji is glaring example where lack of regulation has failed.

Air Fiji's demise was due to its own complacency coupled with Pacific Sun's entry. Air Fiji did not attempt to improve its performance and invest in improving its fleet and services. This is because it was faced with weak competition early on. It appears that Pacific Sun is following the same flight path. Regulation should keep the monopoly holder in check and at the same provide some advantages to other airlines so they can enter the market and compete.

The Council believes that the Commission should place regulatory control over tariffs to safeguard against predatory pricing. Pacific Sun's advantage as the domestic arm of international carrier Air Pacific puts in a powerful position to cut prices and drive out competition. The Commission should pro-actively address the likelihood of predatory pricing.

8.4 Having regard to the Commerce Act 1992, as amended, what specific regulator 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 should impose the relevant provisions of the Fair Trading Decree pertaining to Misuse of Market Power. The Council also calls on the Commission to work with the Department of Fair Trading & Consumer Affairs in enforcing the provisions of Part V – Consumer Protection of the Fair Trading Decree 1992. The Council feels that the current regulatory framework in the aviation industry is not sufficient to provide redress on consumer complaints and concerns. The ALTB and CAAFI and principally involved in the aviation aspects of airline services, while issues relating to airline services and customer care standards are not fully addressed.

9.0 Conclusion

The Consumer Council submits that the Commerce Commission takes some concrete steps in controlling Pacific Sun's market power in domestic airline services. The result of the airline's market power is evident from its poor service quality and unfair policies as experienced by consumers.

Pacific Sun has no interest in addressing consumer complaints because it fully understands that consumers do not have any other choice. The airline appears to be taking advantage of this lack of choice by being indifferent to mounting consumer complaints against flight delays, cancellations and mechanical problems. A good example of consumer suffering is when a complainant booked with Pacific Sun Flight No. BO35 with his family members in order to go to Labasa for his wedding ceremony and he was to return to Nausori from Labasa on the same day. This was to facilitate a wedding reception paid for and organized by him and his family in Suva for the evening. However, upon arriving at the Labasa airport, his return flight to Suva was cancelled without any prior notification. While the Complainant appreciated that Pacific Sun provided accommodation and food, the fact remains that the complainant and his family was deprived of a special ceremony which had costs him a lot of money to organise. Many creditors were already paid for the services that were provided, including food, flowers, decoration and other expenses associated with the reception event. This was all a waste and in inconvenience not to mention, the poor service delivery causing grave anxiety and dejection to the newlyweds who were looking forward to celebrating and sharing a day in their lives with their family members.

With the absence of choice and effective competition from another significant player, the Commerce Commission should be in a very good position to impose some regulatory measures to curtail its complacency. The Council feels that the Commission should impose measures to:-

- ensure mandatory cash compensation for delayed/cancelled flights;
- prevent predatory pricing;
- set fair prices; and
- ensure Pacific Sun's compliance with the consumer protection and competition provisions of the Fair Trading Decree.

Commerce Commission is probably the best bet consumers currently have in terms of redress or regulation of market behaviour by the airliner. It seems that the ATLB is not bold enough to take its statutory functions seriously and CAAFI only cares for safety which is also important, but so are convenience, comfort, money and time of the consumers. Consumers must be given a deal that is value for money and lack of regulation and enforcement should not become an impediment for expecting consumer satisfaction where especially a lot of money is made by Pacific Sun everyday at the expense of cheating consumers of their deserving service.