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FROM	Corporate Legal Services	DATE 9 May 2016

NUMBER OF PAGES INCLUDING COVER SHEET	One
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SUBJECT	AIR NEW ZEALAND SETTLES LONG RUNNING CARGO CLAIM
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Air New Zealand has agreed to settle a class action compensation claim in the United States rather than take the risk of a potentially very material commercial liability by continuing to defend its position.

In 2006, a civil compensation claim was filed on behalf of several freight forwarders naming a significant number of global airlines, including Air New Zealand, for alleged conspiracy involving air cargo fuel and security surcharges between 2000 and 2006. In 2011, Air New Zealand having successfully defended its position with the US Department of Justice, was released from their criminal investigation.

After ten years of arguing the validity of the civil compensation lawsuit in US courts, Air New Zealand elected to pursue settlement with the plaintiffs. The settlement, reached through mediation efforts, was agreed on 7 May 2016 and is subject to approval by the Court in New York. Despite settlement, Air New Zealand has not admitted to being part of the alleged conspiracy.

Under US law, every participant in a conspiracy is liable for the harm caused by the entire conspiracy regardless of the extent of their participation. When a conspiracy involves “anti-trust” (anti-competitive) conduct, the entire damages are trebled. The settlement amount of US\$35 million represents 2.8% of the US\$1.223 billion paid in settlements by 28 airlines. Air New Zealand is one of the last airlines to settle and one of the few airlines involved in the action to have been investigated by the US Department of Justice and not subsequently prosecuted.

“This is purely a question of mitigating an unacceptable risk created by the US class action system which creates enormous pressure to settle such matters commercially. There was no credible evidence that any Air New Zealand employee participated in any conspiracy, but the potential for an unexpected verdict was not an acceptable commercial risk for the airline,” said John Blair, Air New Zealand’s General Counsel.

Air New Zealand’s outlook for the financial year 2016, which targeted earnings before taxes and equity earnings from the Virgin Australia shareholding to exceed \$800 million, does not incorporate the impact of the settlement from the US class action compensation claim on 2016 earnings. Outlook was provided by Air New Zealand on 25 February 2016, before an estimate or likelihood of a settlement could be ascertained.

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