

From: MEMO.CX.FOPRBD  
To: CXHKGCLK1.CLKPO3(FOPRBD)  
Date: Sat, Oct 3, 1998 9:21 AM  
Subject: Minutes

--- Received from CX.FOPRBD RON DAVIES \* 03/10/98 09.21  
-> CX.FOPDER DAVE ROBERTS (FLT) HKGOFEX  
-> GRPWISE.FOPRBD RON DAVIES HKGWECX  
Ack/Ron

-----  
--- Received from CX.FOPDER DAVE ROBERTS \* 02/10/98 09.11  
-> CX.FOPJPC PADDY CAVANAGH  
-> CX.FOPRBD RON DAVIES (FOP) HKGWECX  
-> CX.FOPHKH DENLY HAU (X8581) (CRW) HKGOPCX  
CC:  
-> CX.FOPCGA \*> Being forwarded by receiver  
-> CX.FOPTTL \*> Being forwarded by receiver  
Gentlemen: Would like to get together at 09:00 on Wednesday the 07th.

Corinne: Any thoughts/suggestions. Cheers, Dave

--- Received from CX.FOPWJC JOYCE WONG (FOP) 29/09/98 15.31

Minutes for the "Sick Leave" Meeting  
29 September 1998 10AM 3/F Conference Rm CLK

Attendees :  
Nick Rhodes (Chairman) Netsson Wu  
Corinne Aldis KM Chan  
Chris Hoyland Richard Hall  
Greg Gibbins Paddy Cavanagh  
Denly Hau Dave Roberts  
K.Y. Cheng Dennis Leung  
Joyce Wong (Secretary)

1. A summary table re sick leaves for the year 1997 & 1998 will be created for each cockpit crew. This will serve as a tool for the annual interview. It's been proposed that the report will be updated annually or as required.
  2. A separate chart will be provided for the "black listed" crew. Proposed to be updated every 3 months or before the Chief Pilot signs the annual increment for the particular individual.
  3. A list of all cockpit crew sick leave reports will be updated quarterly.
  4. Incentives & Dis-incentives  
a) Incentives Action parties  
=====
- |                          |          |
|--------------------------|----------|
| - leave points           | DER / DH |
| - request G days         | CH / KM  |
| - request trips          | X        |
| - temp bases / swaps     | DER RD   |
| - more reserves / less G | CH / KM  |
| - roster "in bin"        | X        |

- O days after ULH vs G days      CH / DL
- repeat rosters - including X'mas      KM
- staff travel (annual FOC, UGSA)      DER / DH
- work from age 55 - 60

b) Dis-incentives

=====

- loss of training
- loss of job
- loss of increment
- loss of base
- loss of command / delay in promotion

5. Sick note

It has been agreed that with good measures to tackle the sick leave problems, there should not be a need for submitting sick notes in the future.

6. PMO

If a particular cockpit crew has been sick for several occasions in a year, he may be asked to see the PMO for body check.

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- > CX.FOPCGA      \*-> Being forwarded by receiver
- > CX.FOPHCH      CHRISTOPHER HOYLAND      HKGWQCX
- > CX.FOPGAG      \*-> Being forwarded by receiver
- > CX.FOPHKH      DENLY HAU (X8581)      (CRW) HKGOPCX
- > CX.FOPKYC      K. Y. CHENG (X8569)      (ADM) HKGOACX
- > CX.FOPWYK      NELSSON WU      (CRW) HKGOCCX
- > CX.FOPKMC      \*-> Being forwarded by receiver
- > CX.FOPRJH      \*-> Being forwarded by receiver
- > CX.FOPJPC      PADDY CAVANAGH
- > CX.FOPDER      DAVE ROBERTS      (FLT) HKGOF CX
- > CX.FOPLWH      \*-> Being forwarded by receiver

02 November 1998

Our Ref: 4009/pj/98/143

Mr P D A Sutch  
Chairman  
Cathay Pacific Airways Limited  
35/F, 2 Pacific Place  
88 Queensway  
Hong Kong



**Hong Kong  
Aircrew Officers  
Association**

Dear Mr Sutch

**AIRCREW SICK LEAVE**

I am compelled to write to you on a subject of extreme gravity.

It has been brought to the attention of the Association that, at a meeting held on 29<sup>th</sup> September 1998, chaired by Mr. N. Rhodes, General Manager Aircrew, and attended by a number of managers from the Flight Operations Department, the subject of aircrew sickness was discussed.

At that meeting it was decided that a "blacklist" of aircrew who are deemed to be taking too much sick leave is to be compiled. Furthermore, aircrew are to be subjected to "incentive and disincentive" treatment.

The recently initiated annual aircrew interviews are to be used as a tool to apply subtle intimidation to aircrew and "incentives and disincentives" are to include:

- leave points
- request G days
- temp bases/swaps
- more reserves/less G
- O days after ULH vs G days
- repeat rosters - including X'mas
- staff travel (annual FOC, UGSA)
- loss of training
- loss of job
- loss of increment
- loss of base
- loss of command / delay in promotion
- full body check by PMO

Additionally, at the meeting, responsibility for implementing these policies was assigned to various individual managers.

Disregarding the fact that those assigned such responsibilities have no qualifications whatsoever to determine the fitness, or otherwise, of aircrew to undertake their assigned duties, any attempt to coerce aircrew, either by reward, intimidation or threat, into reporting for duty in contravention of Article 20(8)(a) of the Air Navigation (Hong Kong) Order 1995 constitutes a criminal offence and such actions can only be described as both negligent and reckless.

In the past when senior Flight Operations managers have attempted to coerce or intimidate Officers as a result of their reporting unfit for duty, the Association has viewed these cases as isolated incidents and treated them as such. This can no longer be the case.

S/F Daily House, 35-37 Halphong Road, Tsim Sha Tsui, Kowloon, Hong Kong  
Tel: (852) 2736 0823 Fax: (852) 2736 0903 E-mail: hkaoa@hkaiopa.org  
Member of International Federation of Airline Pilots Associations. Member of International Flight Engineers Organization.

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The actions of these managers constitute an immediate threat to the operational safety of Cathay Pacific Airways and call into serious question not only their suitability to hold positions of responsibility within Flight Operations management, but also the integrity and competence of the Flight Operations management structure as a whole to hold an Air Operator's Certificate.

The aircrew of Cathay Pacific view this matter most seriously and urgently request that you give an assurance that the implementation of such policies will cease with immediate effect and that appropriate action will be taken against those responsible.

In view of the seriousness of the situation, this matter has also been referred to the Director Civil Aviation Department, the Principal Medical Officer and Manager Corporate Safety Department.

I await your urgent reply.

Yours sincerely

Captain A E Pleavin  
President

**FAXED**

DATE: 2 NOV. 1998

02 November 1998

Our Ref: 4009/pj/98/144

Mr R A Siegel  
Director of Civil Aviation  
Civil Aviation Department  
46/F Queensway Government Offices  
66 Queensway  
Hong Kong



**Hong Kong  
Aircrew Officers  
Association**

Dear Mr Siegel

**AIRCREW SICK LEAVE**

Information of a very serious nature has come to the attention of the Association.

Enclosed is a copy of a letter which I have sent today to the Chairman of Cathay Pacific Airways Ltd., the contents of which I believe are self-explanatory.

The Association believes that any attempt, either through threat or reward, to influence aircrew to operate a flight if he knows or suspects that he is unfit to do so, cannot be allowed. Indeed, we view such action as clearly in contravention of the law.

We feel that it is our duty as a Professional Association to bring this matter to your attention, together with a request that you take such action as you deem appropriate to ensure that Cathay Pacific Airways are not permitted to introduce such policies.

Please deal with this matter as one of great urgency. I look forward to hearing from you.

Yours sincerely

Captain A E Pleavin  
President

Encl.

5 NOV 1998



民航處 Civil Aviation Department

飛行標準及適航部 Flight Standards and Airworthiness Division

香港啟德國際機場協興道五十二號停機坪大廈 261 室  
ROOM 261 APRON SERVICES COMPLEX 52 CONCORDE ROAD HONG KONG INTERNATIONAL AIRPORT HONG KONG

檔案編號 OUR REF.	來函編號 YOUR REF.	電話 TEL.	圖文傳真 FAX.	專用電訊 TELEX:	航空專用電訊 AFTN
(2) in A/OPS/AOA/1		2769 7641	2362 4250	39524 CFSHK HX	VHHHYAYC

3 November 1998

Captain A E Pleavin  
President  
Hong Kong Aircrew Officers Association  
5/F Daily House  
35-37 Haiphong Road  
Tsim Sha Tsui  
Kowloon

pk faxed

File No: 2009	
(P)	VPs
POs	GS
Cite	TS
Day	Co
Inc	Pers
Dir:	CAD/P
REPLY:	Y/N

Dear Captain Pleavin,

**Aircrew Sick Leave**

Your letter 4009/pj/98/144 dated 2 November 1998 to the Director of Civil Aviation has been passed to this Division for further action. In view of the nature of the allegations contained therein, we have asked Cathay Pacific Airways for their comments thereon.

Please be advised that Mr Albert K Y Lam assumed the position of Director of Civil Aviation on 2 October 1998.

Yours sincerely,

(Captain J H A Adams)  
Chief, Flight Standards  
for Director of Civil Aviation

JHAA/al

11 NOV 1998



Cathay Pacific Airways Limited  
35/F, Two Pacific Place  
88 Queensway, Hong Kong.  
Telephone: (852) 2747 5112, 2747 5115  
Fax: (852) 2810 4893

Peter Sutch  
Chairman

File No:	4009
(P)	VPs
POs	(GS)
(Ctte)	TS
(Day)	(Co)
(Inc)	Pers
Dir:	
REPLY:	Y/N

Ref : SC22/231

Captain A E Pleavin,  
President - HKAOA,  
5/F Daily House,  
35-37 Haiphong Road,  
Tsimshatsui, Kowloon,  
Hong Kong.

10th November 1998

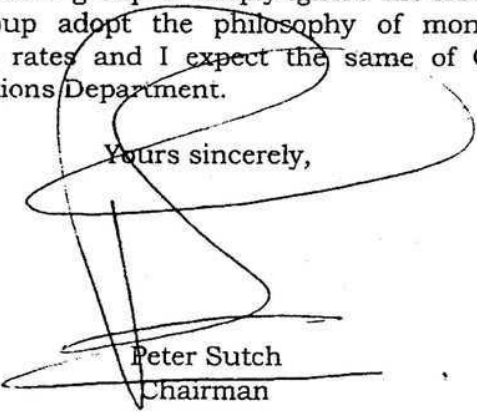
Dear Captain Pleavin,

Thank you for your letter reference 4009/pj/98/143 dated 2nd November 1998 concerning Aircrew Sick Leave.

I have checked with Flight Operations Department Management who have confirmed that this issue has been discussed but that no policy changes have been formulated, let alone implemented. I believe it would have been more appropriate for you to raise any concerns you may have had with the Management team rather than write direct to me with unsubstantiated allegations.

You will need to understand that employee sickness absence rates among some Cathay aircrew are extremely high and it would be irresponsible of any Management group to simply ignore the issue. All Companies within the Group adopt the philosophy of monitoring employee sickness absence rates and I expect the same of Cathay Pacific Airways Flight Operations Department.

Yours sincerely,

  
Peter Sutch  
Chairman

PDAS/spt



民航處 **Civil Aviation Department**

飛行標準及適航部 Flight Standards and Airworthiness Division

23 NOV 1998

香港啓德協調道五十二號停機坪服務大廈261室  
Room 261 Apron Services Complex 52 Concorde Road Kai Tak Hong Kong

檔案編號 OUR REF.	來函編號 YOUR REF.	電話 TEL.	圖文傳真 FAX.	專用電訊 TELEX:	航空專用電訊 AFTN
(6) in A/OPS/AOA/1	Your Ref	(852)2769 8896	(852)2382 4577	39524 CFSHK HX <i>Hand copy</i> BY FAX & POST	VHHHYAYC

19 November 1998

Captain A E Pleavin  
President  
Hong Kong Aircrew Officers Association  
Daily House  
35-37 Haiphong Road  
Tsim Sha Tsui  
Kowloon

Dear Captain Pleavin,

Aircrew Sick Leave

Thank you for your letter of 2 November 1998 on the above subject.

In the interest of an unbiased and balanced view, we have requested Cathay Pacific Airways to comment on this issue. In their response, they stated that they have been reviewing and monitoring sickness absence levels amongst Cathay Pacific crew, but at the time of writing, had not implemented any new measures in this area. They also advised that they are well aware of their legal obligations under the AN(HK)O 1995, and have assured us that they will always operate within the spirit and intent of that document.

We note your concern. However, we have no evidence to hand to suggest that Cathay Pacific had exceeded the normal management prerogatives in this area.

Thank you for bringing this matter to our attention. Please rest assured that we always attach great importance to issues of flight safety.

Yours sincerely,

(Norman LO)  
for Director of Civil Aviation



**FAXED**

DATE: 26 NOV 1998

26 November 1998

Our Ref: 4009/cmp/98/18

Mr P D A Sutch  
Chairman  
Cathay Pacific Airways Limited  
35/F, 2 Pacific Place  
88 Queensway  
Hong Kong



**Hong Kong  
Aircrew Officers  
Association**

Dear Mr Sutch

### AIRCREW SICK LEAVE

Thank you for your letter of 19<sup>th</sup> November, Ref: SC22/231, concerning Aircrew Sick Leave.

I wrote to you directly on this matter because of concerns, which I believe will become apparent to you after reading the attached copy of the minutes of a meeting held within Flight Operations Department on 29<sup>th</sup> September 1998.

From the minutes, it appears that several items will be, or have been actioned.

Specifically:

- 1 Sick leave tables will be created for each cockpit crew and these "will serve as a tool for the annual interview."
- 2 A separate chart "will be provided for the 'black listed' crew."
- 3 Incentives and disincentives are listed, and a number of items are allocated to individual management personnel for action.

In the light of the conflicting information the Association has received on this issue, I remain gravely concerned for the operational safety of Cathay Pacific Airways. I would be most grateful if you would give an undertaking that no section of these minutes will be implemented.

Furthermore, on behalf of the aircrew body, I would welcome your assurance that all Flight Operation's managers will cease and desist with actions of this nature, which are only deteriorating an already poor climate of trust between the aircrew and management.

5/F Dally House, 35-37 Haiphong Road, Tsim Sha Tsui, Kowloon, Hong Kong  
Tel: (852) 2736 0823 Fax: (852) 2736 0903 E-mail: hkaoa@hkalpa.org  
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I have copied this letter and the attachment to the Director of the Civil Aviation Department, the Principal Medical Officer and the Corporate Safety Manager for their information.

Yours sincerely

Captain A E Pleavin  
President

- cc Mr A K Y Lam – Director of Civil Aviation
- Dr John Merritt – Principal Medical Officer, Cathay Pacific Airways
- Mr D Mawdsley - Corporate Safety Manager, Cathay Pacific Airways

01 December 1998

Our Ref: 4009/pj/98/147

Mr Norman Lo  
Assistant Director (Flight Standards)  
Civil Aviation Department  
Flight Standards and Airworthiness Division  
Room 261 Apron Services Complex  
52 Concorde Road  
Kowloon  
Hong Kong



Dear Mr Lo

### AIRCREW SICK LEAVE

Thank you for your letter dated 19 November 1998 regarding Aircrew Sick Leave.

I have attached for your information a copy of a second letter to the Chairman of Cathay Pacific Airways (CPA) and a copy of the minutes of a meeting held within Flight Operations on 29 September 1998. As you can see from the minutes a number of incentive and disincentive items were discussed and management personnel assigned action items. The items discussed directly effect an Officer's ability to objectively assess whether his physical or mental condition renders him temporarily or permanently unfit to perform as a member of the flight crew of an aircraft registered in Hong Kong. The Association does not see how CPA can be aware of their obligations under the AN(HK)O 1995, or indeed operate within the spirit and intent of that document, whilst intending to action the items listed in the minutes.

The tracking of sickness rates is an acceptable management practice, however the "black listing" of crew and the implementation of incentives and disincentives is well beyond reasonable. It is pertinent to note that one of the reference works on Human Factors for Pilots, which is included as part of the ATPL examination syllabus, contains the following statement:

"If a management consistently exerts pressure on its employees to operate in ways that are more consistent with the short-term economic health of the company than with safety and good practice, the company is likely to develop symptoms of 'organisational stress'. These symptoms include poor industrial relations, antagonism at work, high labour turnover and absenteeism, and, most importantly for the aviation industry, a high accident rate."

The Association believes that CPA is now exhibiting the first four symptoms listed and, as a result, views the increase in sickness rates as a very serious indicator.

Although the Association has repeatedly attempted to engage CPA management in meaningful dialogue to address the 'organisational stress', to date we have been unsuccessful. The Association views Management attempts to pressure aircrew with

5/F Daily House, 35-37 Haiphong Road, Tsim Sha Tsui, Kowloon, Hong Kong  
Tel: (852) 2736 0823 Fax: (852) 2736 0903 E-mail: hkaoa@hkalpa.org  
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regard to sickness, together with their subsequent unconditional denials, as a grave threat to the operational safety of CPA.

Yours sincerely

*PP Lungs Tsui*

Captain A E Pleavin  
President

P

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民航處 **Civil Aviation Department**

飛行標準及適航部 Flight Standards and Airworthiness Division

- 9 DEC 1998

香港啓德協興道五十二號機坪事務大廈261室  
Room 261 Apron Services Complex 52 Concorde Road Kai Tak Hong Kong

檔案編號 OUR REF.	來函編號 YOUR REF.	電話 TEL.	圖文傳真 FAX.	專用電訊 TELEX:	航空專用電訊 AFTN
(10) in A/OPS/AOA/1		2769 7641	2362 4250	39524 CFSHK HX	VHHHYAYC

8 December 1998

Captain A E Pleavin  
President  
Hong Kong Aircrew Officers Association  
5/F Daily House  
35-37 Haiphong Road  
Tsim Sha Tsui  
Kowloon  
Hong Kong

File No: 4009/CAD

(P)	VPs
FCs	(GS)
(Cie)	TS
(Dey)	Co
Inc	Pers
REPLY:	Y/N

FAXED

Dear Captain Pleavin

**Aircrew Sick Leave**

I acknowledge receipt of your letter 4009/pj/98/147 of 1 December 1998.

Having carefully studied your letter, and the attachments thereto, I do not believe that there is any material change to the position to which I responded in my letter of 19 November 1998. I am pleased to note that you acknowledge that 'tracking of sickness rates is an acceptable management practice'. As previously stated, we have no evidence to suggest that the operator concerned has exceeded normal management prerogatives in this area.

I can assure you that any evidence confirming the imposition of measures likely to result in 'organisation stress' will be effectively addressed. I do not believe that any such evidence exists at the present time.

Yours sincerely,

(Norman LO)  
for Director of Civil Aviation

W

16 DEC 1998



Cathay Pacific Airways Limited  
35/F, Two Pacific Place  
88 Queensway, Hong Kong.  
Telephone: (852) 2747 5112, 2747 5115  
Fax: (852) 2810 4893

Peter Sutch  
Chairman

File No:	4009
P	VPs
POs	GS
(Cite)	TS
(Day)	Co
Inc	Pers
Dir:	
REPLY:	Y/N

faxed

14<sup>th</sup> December 1998

Captain A.E. Pleavin  
President - HKAOA  
5/F, Daily House  
35-37 Haiphong Road  
Tsim Sha Tsui  
Kowloon

Dear Captain Pleavin,

Aircrew Sick Leave

This is to acknowledge receipt of your letter dated 26<sup>th</sup> November 1998.

In my previous reply I invited you to contact Flight Operations Department if you had concerns. I still believe this to be the most appropriate course of action. Nick Rhodes has also covered the issue very openly and frankly in the last edition of Crews News giving, I would have thought, re-assurance to all concerned.

Yours sincerely,

PDAS/mi

**FAXED**  
21 MAR 2001

21 March 2001

Our Ref: 9009/01/sh/041

Mr Philip Chen  
Director and Chief Operating Officer  
Cathay Pacific Airways Limited  
CX City, 8 Scenic Road  
Hong Kong International Airport  
Lantau  
Hong Kong

24/4/01



**Hong Kong  
Aircrew Officers  
Association**

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Dear Mr Chen

### FLIGHT SAFETY

The Association has Objectives in its Rules pertaining to professional interests and Members' interests. I wish to assure you that I am writing to you purely about professional matters and flight safety in particular.

In the last 6 months, the communications between the Association and the Company have fallen into two broad categories: industrial and safety. The former category of communications is part of the normal day-to-day relations in any company and I do not wish to comment on those here. However, unlike most unions, the Association also has a specific safety function because its members are the last line of defence in preventing an accident. Although some may find the line between safety and industrial matters to be blurred, we have striven in our communications to maintain that distinction. I reiterate that this letter is solely about flight safety and has nothing to do with industrial issues.

Attached is a series of correspondence with the Flight Operations Department concerning operational matters and their effect on flight safety. For ease of reference, I have also attached a summary.

Our main concern is the declining margin of safety as our airline expands. The Association has serious misgivings that our requests concerning this problem have not received the appropriate attention or urgency. In the interests of the flight safety both of our members and of the travelling public, we can no longer tolerate the non-committal replies. The latest response, dated 12<sup>th</sup> March, typifies the problem. Vague statements about being "*mindful of responsibilities*" and being "*guided accordingly*" are dismissive at best and negligent at worst. However, avoiding this issue will not solve the problem.

We are all aware of the difficulties created by expansion. There is no doubt that the Flight Operations Department's resources are stretched to meet the task. Unfortunately, those closest to the problem, through no fault of their own, often cannot perceive the risks; it is the responsibility of senior management to maintain overall corporate safety. The Association shares that responsibility. Accordingly, we

5/F Dally House, 35-37 Haiphong Road, Tsim Sha Tsui, Kowloon, Hong Kong  
Tel: (852) 2736 0823 Fax: (852) 2736 0903 E-mail: hkaoa@hkalpa.org  
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have copied this letter to the Chairman and the Chief Executive Officer as well as the Corporate Safety Department for their information.

The Association is, therefore, making a final in-house approach to you, as Chief Operating Officer, to request that you take action to address the safety concerns highlighted in our letters.

Yours sincerely

Nigel Demery  
President

Copy:

Mr James Hughes-Hallett, Chairman  
Mr David Turnbull, Deputy Chairman and Chief Executive  
Mr Peter Wiggins, Head of Corporate Safety

Enclosures:

Annex A – Summary of Issues  
Annex B – Series of Letters



02 April 2001

Our Ref: 9017/sh/01/048

Captain K R Barley  
 Director Flight Operations  
 Cathay Pacific Airways Ltd  
 3/F South Tower, Cathay City  
 8 Scenic Road  
 Hong Kong International Airport  
 Lantau, Hong Kong

**FAXED**  
 02/04/01



**Hong Kong  
 Aircrew Officers  
 Association**

*12/03/2001  
 20/4/01*

Dear Captain Barley

### AIRCREW HEALTH

It has been brought to our attention that pilots are being denied temporary basings on the basis of their medical history. I refer to our previous correspondence 4009/pj/98/143 dated 2nd November 1998. It is disappointing that a policy, which affects corporate safety and crew morale, has again been implemented without prior consultation.

Members have informed us that they have been contacted by Flight Operations managers and advised that, due to their previous year's health history, they will be denied a temporary basing. Disturbingly, managers also stated that, should they avoid calling in sick for a specified period, they would re-qualify for temporary basings. Members were also informed that the provision of doctor's certificates during the past year was irrelevant.

A Captain recently described how his First Officer, obviously ill and unfit for duty, came to work because he feared he would lose his eligibility for a temporary basing. This policy is not a responsible way in which to address inadequate manning levels and has already negatively impacted flight safety. Accident investigations clearly show that corporate stress and roster instability are major contributory factors in the "accident chain". This policy adds yet another link to that chain.

I understand that recent health history may now be a criteria in judging a pilot's potential for Command. Aircrew health (referred to erroneously by your department as "absenteeism") should not be used as a basis for eligibility for aircrew bases, benefits, appointments or upgrades. Pilots have a legal responsibility to report if they are unfit for duty. It would be illegal to incite them to do otherwise. May I suggest that a responsible course of action would be to withdraw this new policy?

I ask that you treat this matter with the urgency it deserves. Notwithstanding the safety issues, this policy is adding to the continuing decline in management-crew relations. Reviewing this policy may help to reverse this trend. I look forward to discussing how we might work together to responsibly implement an Absence Management Programme as you suggested in your previous letter.

Yours sincerely

Captain N J Demery  
 President

c.c. Mr Sten Kroutil - IRM

5/F Dairy House, 35-37 Haiphong Road, Tsim Sha Tsui, Kowloon, Hong Kong  
 Tel: (852) 2736 0823 Fax: (852) 2736 0903 E-mail: hkaoa@hkalpa.org  
 Member of International Federation of Airline Pilots Associations. Member of International Flight Engineers Organization.

24 APR 2001



Cathay Pacific Airways Limited  
Flight Operations Department  
Cathay Pacific City, 8 Scenic Road  
Hong Kong International Airport  
Lantau, Hong Kong

*NRK*

Ref: FOP-AOA-6-01027

RECEIVED  
20-4-2001

20<sup>th</sup> April, 2001

Captain N.J. Demery  
President - HKAOA  
c/o Mailbox No. 001  
CX-CLK

Dear Captain Demery,

ABSENCE MANAGEMENT

Thank you for your letter of 2nd April which refers to the above subject.

Over the past six months the Company has collated a body of evidence to suggest that a number of individual crew members are using absenteeism as a means of disrupting the commercial operation of the airline.

Whilst this remains the case the Company has little option but to attempt to manage absence as best it can. This is not to suggest that all crew members are acting irresponsibly or that the HKAOA is co-ordinating such activity.

I am encouraged to learn that the HKAOA is willing to discuss implementation of an Absence Management Programme and I look forward to receiving the names of Association members willing to undertake this responsibility. I will be happy to co-ordinate such a series of meetings at the earliest opportunity.

Yours sincerely,

Captain K.R. Barley  
Director Flight Operations



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26 APR 2001



Cathay Pacific Airways Limited  
9/F, Central Tower  
Cathay Pacific City, 8 Scenic Road  
Hong Kong International Airport  
Lantau, Hong Kong  
Telephone: (852) 2747 5000

Capt. Nigel Demery  
Present

*emailed*

File No:	9009
P	Yes
FOs	Yes
Ops	Yes
Eng	Yes
Ext	Yes
Int	Yes
Other	Yes

24<sup>th</sup> April 2001

Dear Captain Demery,

Flight Safety

Thank you for your letter, ref: 9009/01/sh/041, dated 21<sup>st</sup> March 2001.

Let me say in the first instance that we always welcome constructive suggestions on many issues, including safety. However the Company has final responsibility in this area and, in this case, does not accept your claim that we are experiencing a declining margin of safety as we expand. Cathay Pacific Airways has always had, and continues to have, a vigorous commitment to Safety and Security, and we can find no evidence that this commitment has diminished.

You are, we hope, aware of some of the safety factors we take into account as a responsible operator:

- We have, for many years, invested significant resources in personnel, systems and equipment to ensure that the recruiting, training and operational standards of our personnel are of industry leading quality.
- Our regulator, the Hong Kong Civil Aviation Department, maintains a rigorous safety oversight programme of our Flight Operations, Engineering and other relevant departments. These Company departments are audited throughout the year by the CAD, and the findings and recommendations contained in the annual report are carefully analysed and implemented.
- Both Flight Operations and Engineering departments maintain Quality Audit sections with the aim of proactively managing compliance with regulatory requirements and industry best practice.
- We have a committed Corporate Safety Department with a direct reporting line to the Deputy Chairman and Chief Executive.
- We comply with possibly the most restrictive Flight Time Limitations requirements in the world.
- We operate one of the best-maintained and youngest aircraft fleets in the world.

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Swire Group

Registered office: 26th Floor, Two Pacific Place, 80 Queenway, Hong Kong

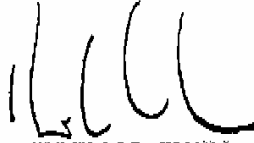
14

All of these factors were taken into account last year when the business environment changed and the Company considered expanding in the wake of earlier difficult business conditions.

We are committed to ensuring that the Company is operating in a safe and secure manner.

There are many challenges facing Cathay Pacific, which will affect all of us. Let us use our energies and resources to positively and constructively ensure our future together.

Yours sincerely,



PHILIP N. L. CHEN

Copy Capt. Ken Barley  
Mr Nick Rhodes

02 May 2001

**FAXED**  
- 3 MAY 2001

6

Our Ref: 4009/cmp/01/10

Captain M S Davis  
Chief Flight Standards for Director of Civil Aviation  
Civil Aviation Department Flight Standards and Airworthiness Division  
10/F Commercial Building  
Airport Freight Forwarding Centre  
2 Chun Wan Road, Chek Lap Kok  
Hong Kong



**Hong Kong  
Aircrew Officers  
Association**

Dear Captain Davis

**CPA ABSENCE MANAGEMENT PROGRAMME**

It is with great frustration that we have come to seek your assistance on an important matter of flight safety.

As the instability of the Cathay Pacific roster increases beyond the dramatic levels audited in December 2000, aircrew sickness rates also continue to rise. The correlation between the two is well documented and is certainly not an "industrial action" as Cathay Pacific management would have the public believe. Instead of reducing its flying schedule to a manageable level, Cathay Pacific management have embarked on a dangerous course of action, under the guise of an Absence Management Program (AMP).

The concept of an AMP was originally broached with the Association as a method of reaching out to pilots in need, by identifying those who were unfit for duty on about 15 or more occasions per year. These pilots would be contacted and offered assistance by a caring management concerned for the employees' welfare. As a professional Association, we agreed with the advantages of such a benign system.

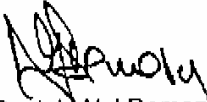
Unfortunately, this system quickly degenerated into a policy of intimidation, targeting aircrew with 6 or more occasions of sickness per year and denying them benefits, for example, temporary basings. The provision of valid doctors' certificates for the occasions of sickness was dismissed as irrelevant. Furthermore, managers are even advising pilots that they will be able to obtain currently denied basings by not reporting sick for a specified period.

A recent incident highlights just how dangerous this situation has become. A Captain advised the Association how his First Officer, arrived late on the flight deck due to a roster disruption. In flight, it became apparent that he was obviously ill and unfit for duty. The First Officer explained that he did not want to call in sick because he feared management repercussions.

I am sure that a system of rewarding good "attendance" may have a place amongst Cathay Pacific's clerical staff. However, the AMP as instituted by Cathay Pacific's Flight Operations Department is an unsafe attempt to solve insufficient manning levels by inciting crew to breach the ANOs by operating while unfit. This AMP has no place in professional Hong Kong aviation.

Despite correspondence and face-to-face meetings requesting Cathay Pacific to desist from this policy, management have steadfastly refused to address this dangerous approach to sickness. Accordingly, we ask you, as one of the primary lines of defence in Hong Kong aviation safety, to intervene. May I remind you of previous correspondence on the subject *Aircrew Sick Leave* dated November/December 1998, attached for ease of reference. Please be advised that this is one item that we shall raise with DGCA on 11<sup>th</sup> May.

Yours sincerely

  
Captain N J Demery  
President

5/F Daily House, 35-37 Haiphong Road, Tsim Sha Tsui, Kowloon, Hong Kong  
Tel: (852) 2736 0823 Fax: (852) 2736 0903 E-mail: hkapa@hkalpa.org  
Member of International Federation of Airline Pilots Associations. Member of International Flight Engineers Organization.



民航處 *Civil Aviation Department*

飛行標準及適航部 Flight Standards and Airworthiness Division

香港赤鱗角駿龍路2號機場空運中心商業大樓十樓  
10th Floor, Commercial Building, Airport Freight Forwarding Centre, 2 Chun Wan Road, Chek Lap Kok, Hong Kong.

檔案編號 OUR REF.	來函編號 YOUR REF.	電話 TEL.	圖文傳真 FAX.	專用電訊 TELEX:	航空專用電訊 AFTN
(4) in A/OPS/ALP/1 II	4009/cmp/01/10	2769 7230	2362 4250	39524 CFSHK HX	VHHHYAYC

- 8 MAY

*Carol Copey*  
3 May 2004

Captain N J Demery  
President  
Hong Kong Aircrew Officers' Association  
5/F Daily House  
35-37 Haiphong Road  
Tsim Sha Tsui  
Kowloon  
Hong Kong

BY FAX and BY POST

Dear Sir,

**CPA Attendance Management Programme (AMP)**

I have today requested Cathay Pacific to forward to my office all information regarding their proposed Attendance Management Programme (AMP). In the meantime you may wish to re-emphasise to your members their responsibility regarding Article 55 of the AN(HK)O 1995.

I would sincerely hope that the alleged 'practices' outlined in the 1998 dated attachments to your letter are not in force. In any event this matter will be discussed with Cathay Pacific upon receipt of their proposed AMP programme, and you may rest assured that any Flight Safety matters will be addressed accordingly.

Yours faithfully,

(Captain M S Davis)  
Chief, Flight Standards  
for Director-General of Civil Aviation

MSD/al

致力於安全及有效率的航空系統 Committed to a Safe and Efficient Air Transport System

**FAXED**  
16 MAY 2001

12

16 May 2001

Ref: 9017/pmw/01/064

Captain K R Barley  
Director Flight Operations  
Cathay Pacific Airways Ltd  
3/F South Tower, Cathay City  
8 Scenic Road  
Hong Kong International Airport  
Lantau, Hong Kong



**Hong Kong  
Aircrew Officers  
Association**

Dear Captain Barley

### AIRCREW HEALTH

Thank you for your letter, FOP-AOA-6-01027, dated 20<sup>th</sup> April that refers to the above subject. We remain seriously concerned about any system that penalises crew who may be exercising their legal duty *not* to operate a flight.

The true reason for a rise in the number of pilots reporting sick is that the current rostering system is failing, which is compounded by incorrect crewing levels. I must observe that attendance and health records are a measure of the efficiency and morale of a team.

We have previously agreed that it is best to institute a new rostering system first to isolate one area of influence. In the meantime we will continue studying the British Airways system.

Once these steps have been taken, we look forward to supplying you with a team to assist in your management of aircrew health.

Yours sincerely

Captain N J Demery  
President

cc: Captain MS Davis Chief, Flight Standards, CAD  
Mr Sten Kroutil Industrial Relations Manager

9

17<sup>th</sup> May 2001

Ref: 9009/pmw/01/066

Mr Philip Chen  
Director & Chief Operating Officer  
Cathay Pacific Airways Ltd  
Cathay City  
8 Scenic Road  
Hong Kong International Airport  
Lantau, Hong Kong

Received  
10/5/01



**Hong Kong  
Aircrew Officers  
Association**

Dear Mr Chen

**FLIGHT SAFETY**

Thank you for your letter, which we received by fax on 25<sup>th</sup> April.

The Association has never doubted the Company's or its employees' commitment to Flight Safety and we do not believe that the commitment is diminishing. The purpose of our previous correspondence is to attempt to maximise *"our energies and resources positively and constructively to ensure a safe future"*.

Unfortunately, your letter does nothing to address the specific issues we raised. Accordingly, the Association again requests:

1. A system for the Commander to monitor cabin crew FDPs
2. An assurance that managers will not use the threat of disciplinary action if a pilot exercises his obligations under the Air Navigation Order
3. A transparent system that monitors Mixed Duties and cumulative Duty Hours
4. An audit of the last 3 months' duty hours of Check and Training and management personnel
5. That no pilot is given less than 12 hours' notice involving a change of duty from a non-Ultra Long Range Operation (ULRO) duty to either a ULRO duty or a Window Of Circadian Low (WOCL) operation
6. That if a pilot is given a change of duty to a ULRO or a WOCL operation, following the completion of a reserve duty, then he/she is given prior rest in accordance AFTLS sub-paras 22.2.C.a or 22.2.C.b or 22.2.C.c
7. An assurance from you that no commander will be questioned about any Commander's Discretion decision
8. Access to and discussion on the results and findings on the internal audit on roster instability

5/F Daily House, 35-37 Haiphong Road, Tsim Sha Tsui, Kowloon, Hong Kong  
Tel: (852) 2736 0823 Fax: (852) 2736 0903 E-mail: hkaoa@hkalpa.org  
Member of International Federation of Airline Pilots Associations. Member of International Flight Engineers Organization.





9. That the Company desists from using an "O" Day as a defined Domestic Day Off or legal Day Off
10. The Company definition of the minimum notification requirement for duty and for days off in accordance with CAD 371
11. That no Hong Kong based crew are scheduled for less than 12 hours' rest in Hong Kong

Subsequent to our initial letter, despite our strong objections to the contrary, Flight Operations has introduced a punitive programme that incites pilots to work when they are unfit. This is a resurgence of a similar attempt in 1998 and is similar to the system that has been employed on cabin crew for a number of years. We have already conditionally agreed with the Flight Operations management that, if the Company feels that an officer's sickness record is excessive, then we should work together to assess and address the problem. The sickness management program in its present form is unacceptable and detrimental to flight safety.

Finally, I must address the issue of the declining safety margin. We agree that Cathay Pacific Airways is a safe airline. However, what concerns the Association is that the *margin* of safety is reducing. Obviously, our airline will only continue to be safe as long as that margin exists. We are concerned that:

- Some C&T captains are:
  - Experiencing an unacceptable level of roster changes
  - Adversely affected in their training task
- Some C&T captains believe flight safety risks have increased due to:
  - Rostering to the limits
  - Reduced training quality
  - Reduced experience levels
  - Increased fatigue and stress
  - High roster disruption
- An undermanning situation exists
- An audit showed that the level of roster instability produces a risk to flight safety
- Simulator training is being reduced to meet the flying task



- An Association Survey found that:
  - o >94% of pilots feel more fatigued
  - o Nearly 20% pilots are *frequently worried* about safety
  - o Nearly 30% of Check and Training (C&T) captains feel more fatigued *and frequently worried* about safety

The data (Surveys and Company publications) on which the above statements are based is available on request. The point is that the Company *must* listen to and act on the feedback from the professionals it employs to ensure that we *remain* a safe airline. In particular, the C&T pilots are one of the airline's greatest assets and it would be perilous for you not to listen to them.

In conclusion, the Association is attempting to work with management towards a safer operation. Indeed we participate in many Company flight safety programs, such as Crew Resource Management (CRM), Line Operations Safety Audit (LOSA) and the Flight Data Analysis Programme (FDAP), I therefore remain concerned that our current flight safety concerns remain unaddressed.

Yours sincerely

Captain N J Demery  
President

- cc: Mr James Hughes-Hallett Chairman  
 Mr Albert Lam Director-General of Civil Aviation  
 Mr David Turnbull Deputy Chairman and Chief Executive  
 Captain Ken Barley Director Flight Operations  
 Mr Peter Wiggins Head of Corporate Safety  
 Mr Sten Kroutil Industrial Relations Manager

8

13<sup>th</sup> June 2001

4009/pmw/01/081

Mr Philip Chen  
Director & chief Operating Officer  
Cathay Pacific Airways Ltd  
Cathay City  
8 Scenic Road  
Hong Kong International Airport  
Lantau, Hong Kong



**Hong Kong  
Aircrew Officers  
Association**

Dear Mr Chen

**SICKNESS MANAGEMENT**

I am writing to express our concern over the recent introduction of an Absence Management Programme by Cathay Pacific administration staff. This programme includes non-medical staff "counselling" pilots over their recent medical history.

This "counselling" appears to follow a discredited 1980's North American initiative that was designed to "pressure" pilots to report for duty when unfit, in order to achieve the commercial task.

As you are aware, it is a legal and Company requirement for all aircrew to be medically and mentally fit to undertake their assigned duties. In effect, this Company policy will induce some crew to report for duties when not fit to do so in order to avoid real or implied repercussions. As such the Absence Management Programme in its present form is not a responsible management initiative and is prejudicial to flight safety.

It is in the best interests of the Company, the travelling public and the employees that this policy ceases immediately.

Yours sincerely

Captain N J Demery  
President

cc: Captain K R Barley      Director Flight Operations  
    Mr Sten Kroutil          Industrial Relations Manager

**FAXED**  
15 JUN 2001

15<sup>th</sup> June 2001

Ref: 9017/pmw/01/082

Mr Albert K Y Lam, JP  
Director-General of Civil Aviation  
Civil Aviation Department  
46/F Queensway Government Offices  
66 Queensway  
Hong Kong



**Hong Kong  
Aircrew Officers  
Association**

Dear Mr Lam

### SICKNESS PROGRAM – CATHAY PACIFIC AIRWAYS

Further to our meeting on 11<sup>th</sup> May, I refer to the sickness management program currently being initiated by Cathay Pacific Airways. This letter amplifies some of our previous points.

We expressed our grave concerns that aircrew are being incited to operate commercial transport aircraft whilst unfit. This is contrary to the Air Navigation Order and is a hazard to flight safety.

Subsequent to our discussions, the operator has sent further letters to crew, which refer to periods of sickness as "absences", inviting them to attend an interview. This follows previous letters on the subject and increases the pressure on crew to operate whilst unfit. Sample letters are attached. Additionally, punitive measures are taken on crew who reach the arbitrary level of 6 occasions within one year. Combined, these measures incite crew to operate whilst unfit.

I should point out that our work contract specifically permits Cathay Pacific Airways to order unfit crew to perform other duties, such as simulator crew-up etc, however this practice is not the norm. The intimidatory measures are directed towards crew unfit for flying duties. Furthermore, the current system of rostering practices, introduced forcefully in 1994, was designed to permit excess flying pay after 700 hours annually. One of the "advantages" proclaimed by management at the time was that the Company could still achieve its productivity targets, even if a pilot reports sick during the month, by increasing the flying rate the following months. Therefore, there is negligible contractual impediment to the operator.

Despite repeated written requests to the operator, attached, to desist from introducing this scheme, we now have sufficient confidential reports to indicate that crew are indeed flying when they should not. This is cause for serious concern. A deidentified message to the Association is also attached that explains some of the problems we are facing. The original can be produced for viewing although we are unable to breach the pilots' confidentiality.

The Association acknowledges that the actual sickness rates have increased dramatically in the past few years. We believe this is due to a very low level of morale, which is induced by poor leadership and man-management, combined with



roster instability that precludes a long-term stable family life. Nonetheless, the current program affects *all* crew. That is unsafe.

We repeat our request for the Department's assistance as our only other alternative involves legal remedies, which would involve the public domain.

Yours sincerely

Captain N J Demery  
President

Encl:

ATTACHMENT TO CAD LETTER

This message was originally addressed to HKAOA and was forwarded to you by HKAOA.

-----  
To whom it may concern,

I wish to you inform you of an event yesterday which I am at a loss as to how to proceed with. Having discussed the matter on the phone with the Office this morning I wish to outline the events for your info.

Yesterday I showed up at work for CX xxx to yyy. On sign on the JFO stated that he was not feeling 100% and should probably not be at work, but that it should be OK. Not being a doctor I am in no position to make a judgement as to fitness to operate.

During the flights it was discussed why he was at work. He said that he had felt quite badly in the morning before coming to work and had thought very seriously about calling in sick. When questioned as to why the decision had been made to go to work versus calling in the answer was chilling.

It seems that he had been on sick leave for another reason and was very concerned about the "sick record". He was rostered G days starting from immediately after the trip and was then proceeding on leave. Anecdotal information led her to believe that this was an "alarm" for the "absence management program". In addition he cited to me another anecdote of a JFO who had done well throughout his upgrade to FO but then was turned down due to the number/frequency of sick days. Being in a position of upgrading shortly this seemed to be a major factor in the decision to go to work. As I am sure you are aware, there are significant financial advantages to being upgraded.

In the latter part of the flight into Hong Kong, especially on descent frequent valsalva's were used by the JFO to equalize pressures. To me, problems clearing ears is an immediate "unfit". The consequences of being unable to properly clear ears are impressed upon us from very early in our careers and could result in permanent damage. That someone would both operate a commercial airliner in this condition and risk permanent damage deeply concerns me.

On arrival last night I looked for some way to deal with this event. Filing an ASR would be one answer, but the obvious response is that a) if one suspects they are unfit for duty they have a legal obligation to not operate, and b) the only result would be the JFO being put in a position that he was so desperately trying to avoid. I thought of calling the CAD directly but thought that the consequences would be the same as above.

I have now seen first hand the result of this "program". It is a dangerous, illegal and ill-conceived series of actions which must be dealt with. It is easy to say, "don't fly sick" but when faced with censure it is easier to say then do, especially for the younger of our peers.

I write this missive to you as I see no point in pursuing it through official channels. These JFOs have been put in a lose/lose position. Not to go sick risks their health and licence and going sick risks their careers. I am reminiscent of flying bush planes in zzz where pilots routinely flew overloaded, unmaintained aircraft because if they didn't they "would never work again in this business". This type of coercion has no place in a professional organization.

If I seem to have overreacted that may be true. On the other hand I have been put in a position where I can either tacitly accept the proceedings or put someone's licence and/or career in jeopardy. I find neither of these palatable. It may be possible that you may know of some way in which to deal with this matter. I would appreciate any assistance and if nothing else I am willing to take action as you see fit, without endangering the JFO involved.

One thought I have had is the ICAC. They are tasked with overseeing the activities of companies and government departments. The CAD must be aware of this program and its consequences. To ignore it can only be described as at best a dereliction of their mandate to ensure safety and at worst criminal negligence of their duties.

I am not intimidated and if you require any further action from me I am willing and able. My concern is that the JFO involved is not identified. To do so and cause exposure to action from any party would negate the purpose of this letter.

I thank you for your attention in this matter.

Sincerely,

AAA  
Captain

- 5 JUL 2001

Cathay Pacific Airways Limited  
9/F, Central Tower  
Cathay Pacific City, 8 Scenic Road  
Hong Kong International Airport  
Lantau, Hong Kong  
Telephone: (852) 2747 5000

20<sup>th</sup> June, 2001

Captain N.J. Demery  
President - HKAOA,  
c/o HKAOA Mail Box,  
CX CLK

Dear Captain Demery,

ABSENCE MANAGEMENT PROGRAMME

Thank you for your letter of 13<sup>th</sup> June, 2001.

We are disappointed that the Hong Kong Aircrew Officers Association has chosen not to support this important initiative. Programmes of this nature are in use by many companies including the Hong Kong SAR Government and demonstrate that employers are aware of their responsibilities in relation to duty of care to employees.

We do not agree that we will induce some crew to fly when not fit, but it may be of use for crew members who may need help to carry out the inherent requirements of their employment.

We are sorry that you do not see this programme as being positive, we believe it is of value to employee and company alike.

With regards,

Yours sincerely



PHILIP N L CHIEN  
Director & Chief Operating Officer

Copy Capt Ken Barley  
Mr Nick Rhodes  
Mr William Chau



**FAXED**  
22 JUN 2001

Pages 1-18

22 June 2001

Ref: 9017/pmw/01/085

Mr Philip Chen  
Director & Chief Operating Officer  
Cathay Pacific Airways Limited  
8 Scenic Road  
Hong Kong International Airport  
Lantau, Hong Kong



**Hong Kong  
Aircrew Officers  
Association**

Dear Mr Chen

### ABSENCE MANAGEMENT PROGRAM

We refer to our previous letters of 13 June 2001 and 17 May 2001 wherein the Association expressed our strong objection to the introduction of an Absence Management Program.

It appears to the Association that the company has undertaken a deliberate campaign to exert pressure on flight crew with the object of influencing a pilot's decision concerning their statutory obligations under the *Air Navigation (Hong Kong) Order 1995* ("AN(HK)O").

In particular, the company has issued a series of letters to pilots who have been unable to undertake flying duties for medical reasons.

The first letter from the company sets out the number of "absences" during the past twelve months, which the pilot is recorded to have had, notes that the "level of absence" is higher than the norm, and describes the "level of absence" as a "cause for concern." In addition to asking for corrections to the company's records, the letter asks whether the company can do anything to assist the pilot to "return to full flying duties." The letter then offers medical and non-medical contacts to discuss "the situation" and comments that a quiet informal chat can sometimes help. The letter concludes by advising the pilot that the company will "continue to monitor the situation."

If additional "absences" arise, the company then sends out a second letter. Again, it describes the "level of absence" as continuing to be of "concern." The letter then requests a meeting with non-medical officers to discuss "your attendance."

It is apparent from these and other letters that the company's interest is in attendance, not the medical reasons for the inability to undertake flying duties. In both letters, it is the "level of absence" which is of "concern." The first letter includes a medical officer as a contact but the second does not. The second letter, in particular, makes clear that it is "your attendance" which is the company's primary reason for writing.

Although "a quiet, informal chat" is suggested, it is worth noting that the company chose not to initiate this subject by first speaking informally with the pilot. Instead,



the company chose to write to the pilot with the clear notation that a copy of the letter would be inserted into the pilot's personnel file. Of the range of options the company had at its disposal for communicating its concerns, the company has chosen the heaviest.

In response, the Association wrote to express its concern that the company's policy is directly inducing crew to report to duty in breach of the AN(HK)O. The Association describes the company's program as prejudicial to flight safety. An example is attached to illustrate the problem caused by the company's heavy approach which led to a junior Officer undergoing upgrade reporting for duty even though unfit. Of equal concern is the anecdote of a junior flight officer said to have been turned down for upgrade due to his "level of absence."

Now the parties are locked in dispute, with the company stressing its concern regarding "attendance levels" and the Association stressing its concern regarding the impact this policy is having on flight safety.

The allegation that the company would be using a carrot (smoother upgrade prospects) and stick (letters, personnel file record and advancement refusals) approach to achieve its ends toward increasing "attendance levels" is a matter of concern. That the company would adopt a policy which invariably requires the pilot (whilst sick) to weigh the risk to flight safety against the risk to the pilot's own career advancement can only be described as the first step down a steep and slippery slope.

Needless to say, section 20(8) of the AN(HK)O is relevant:

20(8)(a) A person shall not be entitled to act as a member of the flight crew of an aircraft registered in Hong Kong if he knows or suspects that his physical or mental condition renders him temporarily or permanently unfit to perform such functions or to act in such capacity.

Under section 98, "flight crew" are defined:

"Flight crew" in relation to an aircraft means those members of the crew of the aircraft who respectively undertake to act as pilot, flight navigator, flight engineer and flight radio operator of the aircraft;

Section 20(8)(a) is mandatory. It prohibits a person from acting as a member of the flight crew if that person knows or suspects that his physical or mental condition renders him unfit to perform the functions he is required to perform as a member of the flight crew. The standard is subjective in that it is the pilot who must determine if he knows or suspects that he is unfit to perform his functions as a member of the flight crew.



If the pilot has obtained a medical certificate which states that he is unfit, he can be said to know that he is unfit as it is reasonable to defer to a medical expert with the relevant expertise to make this determination. However, section 20(8) does not require proof, knowledge beyond a reasonable doubt or even above the balance of probabilities. The requirement is not that the pilot must be more inclined on balance to conclude he is unfit. Instead, the standard is that he must not suspect he is unfit.

The term "suspects" is used again in section 55 of the AN(HK)O in connection with fatigue. It is worthwhile contrasting its use with section 54. Section 54 requires the operator not to "cause or permit any person to fly therein as a member of its crew if he knows or has reason to believe that that person is suffering from, or, having regard ... is likely to suffer from, such fatigue ... as may endanger the safety of the aircraft or of its occupants." Thus, whilst the operator is required to have reason to believe, the pilot is required merely to suspect.

The term "suspects" is not defined in the AN(HK)O. The ordinary meaning of the term describes a belief specified on little or no evidence. Thus, if the pilot, even in the absence of evidence thinks, imagines, or supposes or surmises that he is unfit, he is prohibited from acting as a member of the flight crew. If the pilot is debating internally about whether he is or is not unfit, he has already exceeded the threshold of suspicion. If a thought flashes through his mind that he is unfit, already he has suspected that he is unfit.

Although the term "unfit" is also not defined in the AN(HK)O, the ordinary meaning of the term is that one is incapable of meeting requirements or qualifications, or not being physically fit or sound. Thus, if the pilot suspects he is incapable of meeting the requirements of his capacity or function, he should not act as a member of the flight crew. Given the very high standards imposed upon flight crew, and the very low threshold that suspicion represents, even in the presence of little or no evidence the pilot may be prohibited from acting as a member of the flight crew.

A contravention of this provision is an offence and liable on summary conviction to a fine not exceeding \$5,000 (section 91(5)). Given the extremely low threshold suspicion represents, if the pilot is asked after an incident whether he thought he might be unfit and replies that he thought about it and dismissed it or thought about it but concluded he wasn't, there is a danger that he has already exceeded the threshold. It is only if the pilot can reply that the possibility did not cross his mind that he can be said not to have suspected that his physical or mental condition would render him unfit.

In light of this low threshold, the company's actions are not helpful in ensuring compliance with the AN(HK)O. By the time the pilot considers weighing the risk of sanction by the company in regard to his "level of absence" he has already crossed the threshold of suspicion.



The unacceptable decision then becomes one of weighing the risk of consequences from contravening AN(HK)O against the risk of sanction by the company. Instead of taking steps to ensure compliance with the AN(HK)O, the company's actions can only be seen as an attempt to override the pilot's duties under section 20(8) in an effort to improve the "level of absence." Unfortunately, this conclusion arises because by the time the pilot needs to consider the Absence Management Program, and the company's communications sent to him, he has already passed the threshold of suspicion mandated under section 20(8).

The implication arising from the company's continued pursuit of the Absence Management Program is that notwithstanding that the company is aware of the requirements under the AN(HK)O, it values "level of absence" above compliance with section 20(8) of the AN(HK)O.

We look forward to the company's confirmation that it has ceased its Absence Management Program, failing which we can only conclude that it has deliberately or recklessly pursued a program which will likely lead to breach of section 20(8) of the AN(HK)O and the commitment of an offence under section 91(5). Such a conclusion will unfortunately require the Association to pursue this matter further with the consequential legal fees and costs that would entail. We look forward to the company's reply by 29 June 2001.

Yours sincerely

Captain N J Demery  
President

Encl:



民航處 *Civil Aviation Department*

飛行標準及適航部 *Flight Standards and Airworthiness Division*

香港赤鱗角海運路2號機場客運中心商業大樓十樓  
10th Floor, Commercial Building, Airport Freight Forwarding Centre, 2 Chun Wan Road, Lantau, Hong Kong.

檔案編號 OUR REF.	來函編號 YOUR REF.	電話 TEL.	圖文傳真 FAX.	取用電訊 TELEX:	航空專用電訊 AFTN
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27 June 2001

Captain N J Demery  
President  
Hong Kong Aircrew Officers Association  
5/F., Daily House  
35-37 Haiphong Road  
Tsim Sha Tsui  
Kowloon

Dear Sir,

**Sickness Program – Cathay Pacific Airways**

Thank you for your letter of 15<sup>th</sup> June 2001. The matter is receiving our attention and we will revert to you later.

Yours faithfully,

(Y K Leung)  
for Director-General of Civil Aviation

**FAXED**

28 JUN 2001

28 June 2001

Our Ref: 9017/pmw/01/086

Your Ref: (17) in A/OPS/ALP/1 11

Mr Y K Leung  
Civil Aviation Department  
46/F Queensway Government Offices  
66 Queensway  
Hong Kong



**Hong Kong  
Aircrew Officers  
Association**

Dear Mr Leung

**SICKNESS PROGRAM – CATHAY PACIFIC AIRWAYS**

Thank you for your letter dated 27 June 2001.

For your information, please refer to the attached letter, dated 22 June 2001, sent to the company on this matter.

Yours sincerely

Captain N J Demery  
President

Encl:



民航處 *Civil Aviation Department*

飛行標準及適航部 Flight Standards and Airworthiness Division

*scan copy*

香港赤鱗角駁運路2號機場空運中心商業大樓十樓  
10th Floor, Commercial Building, Airport Freight Forwarding Centre, 2 Chun Wan Road, Chek Lap Kok, Hong Kong.

檔案編號 OUR REF.	來函編號 YOUR REF.	電話 TEL.	圖文傳真 FAX.	專用電訊 TELEX:	航空專用電訊 AFTN
(19) in A/OPS/ALP/I II	9017/pmw/01/086	2769 7230	2362 4250	39524 CFSHK HX	VHHHYAYC

29 June 2001

- 5 -

Captain N J Demery  
President  
Hong Kong Aircrew Officers' Association  
5/F Daily House  
35-37 Haiphong Road  
Tsim Sha Tsui  
Kowloon  
Hong Kong

**BY FAX and BY POST**

Dear Sir,

**Absence Management Programme (AMP)**

Your facsimile dated 28<sup>th</sup> June 2001 refers.

I will be having a further meeting with Cathay Pacific Airways regarding the overall influence the AMP may have on Flight Safety, and in particular, the methodology currently in place for the operation of their AMP.

Yours faithfully,

(Captain M S Davis)

Acting Assistant Director-General of Civil Aviation (Flight Standards)  
for Director-General of Civil Aviation

MSD/at

Fax to JSW

This page then pages 1-15.

20 July 2001

Ref: 9017/pmw/01/099

Mr Y K Leung  
For Director-General of Civil Aviation  
Civil Aviation Department  
10/F Commercial Building  
Airport Freight Forwarding Centre  
2 Chun Wan Road  
Lantau, Hong Kong



**Hong Kong  
Aircrew Officers  
Association**

Dear Mr Leung

**CATHAY PACIFIC AIRWAYS – ABSENCE MANAGEMENT PROGRAM**

Thank you for the informal meeting on 18<sup>th</sup> July 2001 where we discussed our concerns concerning the Cathay Pacific Absence Management Program.

As you know Cathay Pacific terminated 49 officers on 9<sup>th</sup> July 2001 with 3 months' pay in lieu of notice citing a "loss of confidence" in those officers. Initial analysis reveals that approximately 80% of those officers had received one or more letters from Cathay Pacific management referring to the Absence Management Program. The program does not distinguish between absence or certified sickness. We believe that 6 "instances" of either absence or sickness within a specified period results in an officer attracting the attention of this Program.

We are currently determining the percentage of all Cathay Pacific officers who have come to the attention of the Program however it is fair to say it will be far less than 80%. We believe that there is an established link between an officer being involved in the Absence Management Program and likelihood of termination or other disciplinary action.

It is reasonable to assume that if an officer suffers genuine sickness prior to flight but has recorded 5 absence or sickness events within the specified period, that there is then a dangerous inducement to report fit for flight in contravention of the ANO for fear of the consequences of doing otherwise. Anecdotal evidence suggests that some officers are indeed undertaking flight duties when they are not fit to do so.

We believe that situation is producing a real rather than potential flight safety hazard at Cathay Pacific Airways and requires the urgent attention of the Hong Kong Civil Aviation Department.

Yours sincerely

Captain N J Demery  
President

5/F Daily House, 35-37 Haiphong Road, Tsim Sha Tsui, Kowloon, Hong Kong  
Tel: (852) 2736 0823 Fax: (852) 2736 0903 E-mail: hkaoa@hkapa.org

Member of International Federation of Airline Pilots Associations. Member of International Flight Engineers Organization.





民航處 *Civil Aviation Department*

飛行標準及適航部 *Flight Standards and Airworthiness Division*

26 JUL

香港大嶼山駿運路 2 號機場空運中心商業大樓十樓  
10th Floor, Commercial Building, Airport Freight Forwarding Centre, 2 Chun Wan Road, Lantau, Hong Kong.

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23 July 2001

Captain N J Demery  
President  
Hong Kong Aircrew Officers Association  
5/F., Daily House  
35-37 Haiphong Road  
Tsim Sha Tsui  
Kowloon

Dear Sir,

**Cathay Pacific Airways – Absence Management Program**

Thank you for your letter of 20<sup>th</sup> July 2001, the contents of which are duly noted.

Yours faithfully,

(Capt M S Davis)  
for Director-General of Civil Aviation