

## **Relevant sections of document from legal counsel relating to clarification of points raised in AERC report 24.3.2006**

With reference to paragraphs 4.1.8 and 4.1.9 of the AERC report and these issues generally:-

"On the basis of evidence made available to us, we believe that the effect which the Mosquito Device has on young people in its vicinity is of such a minor and temporary nature that any claim that its use infringes anybody's human rights or constitutes an assault would be extremely weak. We are also of the opinion that, for the same reasons, it would be extremely difficult to claim that its use breaches any of the current legislation designed to deal with noise reduction and limitation. Accordingly, we concur with the conclusions reached by AERC Limited.

A public nuisance is caused when there is a material interference with the reasonable comfort or convenience of a class of people within a neighbourhood. We agree that the Mosquito is not likely to cause a public nuisance on the basis that the range from which it can be heard is small, it does not cause pain or harm and persons affected are free to walk away.

A private nuisance is caused when there is a material interference with a person's use or enjoyment of his/her property. This is unlikely to occur with the Mosquito provided it is sited away from the private property of third parties and in particular away from third party private property used by young people."