



## Australian Government

### Department of Infrastructure, Transport, Cities and Regional Development

Australian Competition and Consumer Commission  
loyaltyschemes@accg.gov.au

Dear Sir/Madam

#### **Submission re: Customer loyalty schemes – draft report**

I refer to the draft report released by the Australian Competition and Consumer Commission (ACCC) on 5 September 2019 regarding customer loyalty schemes. The Department of Infrastructure, Transport, Cities and Regional Development (the Department) notes it is a matter for the ACCC to determine the effect of these schemes on consumers and competition, however the Department welcomes the opportunity to provide comments to assist the ACCC in its deliberations.

#### *Personal information – issues*

The Department notes the draft report suggests the practice of highly targeted price discrimination is likely to increase as the volume and quality of data collected by loyalty schemes expands and algorithms become more sophisticated.

The Department notes there is potential for this practice to become common in the aviation market as the “New Distribution Capability” (NDC) is rolled out by industry. Developed by the International Air Transport Association (IATA), NDC is a new data standard for airline booking systems which will enable airlines to better market ancillary services through third party channels, as well as offer personalised fares.

Proponents note this will allow airlines to offer an improved customer experience by tailoring the products offered to consumers based on their preferences and previous decisions. Additionally it will allow for greater product differentiation, improving the capacity for airlines to market their value added services through travel agents and compete on more than just ticket price.

While the full impact of NDC has yet to be fully realised, it is starting to be adopted in Australia. For example, from 1 August 2019, Qantas introduced the Qantas Channel, which is part of a broader digital strategy to improve Qantas’ booking system and builds on the launch of the Qantas Distribution platform that utilises NDC capabilities.

The Department notes the booking systems traditionally utilised by airlines generally only enable airlines to market fares from a limited number of “fare buckets”. NDC will remove this restriction, potentially enabling airlines to introduce sophisticated price discrimination based on the personal data obtained from loyalty schemes.

As the Draft Report notes, airline loyalty schemes can generate personal information (actual or inferred) on a broad range of matters, including income. NDC will enable an airline to offer less competitive fares to individuals identified as high wealth.

While the Department is not currently aware of Australian airlines implementing this pricing strategy, a range of concerns have been raised about this approach in other jurisdictions. For example, in the United States, the American Society of Travel Agents supported a 2018 request to the Federal Trade Commission to further investigate the issue<sup>1</sup>.

The Department does not oppose price discrimination, and notes the practice of charging different fares to different people can generate significant consumer benefits. For example, several airlines offer cheaper fares on some regional routes to consumers identified as residents of a particular region.

Nevertheless, the ACCC may wish to further consider these developments and whether the current approach to privacy regulation is consistent with community expectations in this context.

### *Competitive impacts*

The Department also notes it is unclear how these developments could impact the competitive dynamics in the airline market.

For example, incumbent airlines who are able to leverage a loyalty scheme may obtain a competitive advantage that new market entrants may find difficult to challenge.

In addition, there may be potential for new pricing strategies to lead the airline market to develop similarities to the residential mortgage market (in which the ACCC has noted “the vast majority of borrowers pay substantially less than the headline rates that are advertised”<sup>2</sup>) whereby consumers would generally obtain a (varying) discount by providing their loyalty scheme details. This could impact price transparency and the ability for consumers to utilise third party travel agents to compare prices.

### *Conclusion*

In recent years, customer loyalty schemes have become increasingly innovative, with the development of third party partnerships and exclusive partnerships with firms supplying complementary products, which offer consumers additional avenues to earn and redeem rewards.

The data assets and stable revenue generated by these schemes are an increasingly important revenue source for Australian airline businesses.

While the Department is supportive of airlines diversifying their business and improving the customer experience, we note it will be important for regulatory frameworks to evolve appropriately to ensure consumers are appropriately informed on how their personal data may be used by business.

The Department also notes it will be important for the ACCC to consider the changing role of customer loyalty schemes in the broader airline business model to ensure the airline industry continues to support robust competition.

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<sup>1</sup><https://www.travelmarketreport.com/articles/Can-Airlines-Use-the-Internet-to-Offer-Discriminatory-Pricing>

<sup>2</sup>[https://www.accc.gov.au/system/files/ACCC%20Residential%20mortgage%20price%20inquiry%E2%80%94Final%20report%20November%202018\\_0.pdf](https://www.accc.gov.au/system/files/ACCC%20Residential%20mortgage%20price%20inquiry%E2%80%94Final%20report%20November%202018_0.pdf)

If you wish to discuss this matter further or require any additional information, I can be contacted on (02) 6274 7739.

Thank you again for the opportunity to provide a submission on this matter.

Yours sincerely



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