

**From:** [Kritika Rampal](#)  
**To:** [Wu, Connie](#)  
**Cc:** [Channing, Darrell](#); [Louise Klamka](#); [Emma Frederiksen](#)  
**Subject:** RE: ACCC questions re Virgin Australia Airlines application for authorisation [SEC=OFFICIAL] [ACCC-ACCCANDAER.FID3136887]  
**Date:** Wednesday, 4 May 2022 5:09:54 PM

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Dear Connie

Thank you for your email. Please see our responses below, in line with each of the questions in the ACCC's email.

**Confidentiality**

Virgin Australia claims confidentiality over the portions of the ACCC's questions, and our responses, below highlighted in blue.

Kind regards  
G+T

**KRITIKA RAMPAL**  
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**From:** Wu, Connie <[connie.wu@accc.gov.au](mailto:connie.wu@accc.gov.au)>

**Sent:** Tuesday, 3 May 2022 1:06 PM

**To:** Louise Klamka

**Cc:** Channing, Darrell <[darrell.channing@accc.gov.au](mailto:darrell.channing@accc.gov.au)>; Louise Klamka  
Emma Frederiksen

**Subject:** ACCC questions re Virgin Australia Airlines application for authorisation [SEC=OFFICIAL] [ACCC-ACCCANDAER.FID3136887]

**OFFICIAL**

Dear Ms Klamka,

We have some questions in relation to Virgin Australia's application for authorisation (please see below). Given the timeframe requested for the ACCC to make an interim authorisation decision, we would appreciate it if you could please provide a response to us by close of business on **4 May**. Please note that, as the ACCC's authorisation process is a public process, we would like to publish this information request, together with your response, on the ACCC's public register, subject to any request for confidentiality.

1. Section 2.7 of the application indicates that if authorisation is granted, "...Virgin Australia would have a contractual obligation not to undercut the Partner Carrier's fares. Under these circumstances, the Applicant will match the Partner Carrier's notified fare and the Partner Carrier will be in full control of pricing any flight segments pursuant to the Proposed Conduct. Virgin Australia will receive an amount representing the Interline Service Charge (ISC) for its marketing services (reflective of its cost of sale) and, for itineraries which include a Virgin Australia operated segment, may also receive a fixed prorate in respect of its operated service (emphasis added)".

Is it correct that the Proposed Conduct envisage that a Partner Carrier will have full control over the pricing of the overall itinerary (including the pricing of the segments it operates), but not over the pricing of segments operated by Virgin Australia? In other words, Virgin Australia will continue to independently decide the pricing of the segments it operates?

Yes, this is correct. In this scenario, the Partner Carrier will price the whole itinerary, which Virgin Australia cannot offer outside the codeshare agreement, and Virgin Australia will make that price available in its own sales channels. Virgin Australia will independently decide the prorate it will charge for the VA-operated segment, which will be reflected in the negotiated Special Prorate Agreement.

2. We understand that, consistent with the text quoted in the above question, section 2.7(c) on page 16 of the confidential version of application provides examples to illustrate a proposed formula for determining the revenue that may accrue to Virgin Australia on a multi-segment itinerary if the Proposed Conduct is authorised. We understand the formula shows that the revenue received by Virgin Australia on each ticket will be comprised of: the ISC (calculated at 10% of the fare sold by its Partner Carriers, which is the difference between the ticket price and Virgin Australia's own prorate for the segment it operates), and Virgin Australia's own prorate amount for the segment. Is this a fixed formula, or is the formula (including the proposed 10% figure) expected to change substantially during negotiations between the parties, if the Proposed Conduct is authorised?

The Interline Service Charge (ISC) is a fixed amount typically negotiated between the operating and marketing carriers and is generally reflective of a marketing carrier's costs of sale. The submission uses a figure of 10% for the ISC for illustrative purposes but Virgin Australia expects the ISC negotiated [REDACTED] For ease of reference in the illustrative examples, the submission also sometimes refers to the ISC as being "paid" by the operating carrier to the marketing carrier. However, as codeshare arrangements are re-supply arrangements the ISC technically forms part of the marketing carrier's retained profits and is not a separate charge payable by the operating carrier.

Under the Proposed Conduct, Virgin Australia will receive the following net revenue:

1. Where Virgin Australia is selling segments operated by a Partner Carrier, the amount retained by Virgin Australia in respect of the ISC (in addition to revenue in respect of the sale of any Virgin Australia operated segments that form part of the same itinerary); and



2. Where the Partner Carrier is selling segments operated by Virgin Australia, revenue derived from Virgin Australia billing the Partner Carrier for the sale of Virgin Australia's own operated segment minus an amount retained by the Partner Carrier representing the ISC.

3.



We confirm that there is no proposed joint pricing under the Proposed Conduct – Virgin Australia will simply resupply at the price set by the operating carrier and authorisation is limited to that conduct. Virgin Australia will rename the document to clarify that it is a Pricing Procedures document that has been jointly developed, rather than a document enabling joint pricing.

4. We note that paragraph 4.6 indicates that if authorisation is granted, Virgin Australia's customers will be able to earn frequent flyer (FF) points when travelling on flights operated by the Partner Carriers. Please could you clarify whether the Proposed Conduct involve co-ordination between the parties on their respective FF programs? How will any co-ordination on FF programs change under the Proposed Conduct, compared to the situation pre-authorisation? For instance, we note that it is possible that, without authorisation, Virgin Australia may restore its codeshare relationship with some partners – in those instances, wouldn't customers also be able to earn FF points when travelling on the flights operated by Virgin Australia's codeshare partners?

No coordination of frequent flyer programs is proposed under the authorisation. Virgin Australia has in place earn and redeem agreements with a number of airlines as part of the Velocity program. These would apply with or without the Proposed Conduct and passengers would be able to earn points where applicable. However, while FFP agreements exist independently of codeshare arrangements, they are usually entered into with codeshare partners as airlines are incentivised to make FFP available where they also have the benefit of passenger flow through codeshare arrangements. If Virgin Australia had fewer codeshare partners, it would likely also have fewer FFP partners.

In some cases, Velocity members have a better earn rate, and may earn more status credits, when flying on a VA code than on a Partner Carrier code on the same flight. If customers are able to access the same competitive fares on VA code as on the Partner Carrier code, they will benefit from access to these additional loyalty benefits like tier bonuses (rather than needing to choose between price or loyalty value when choosing the booking code). More broadly, the Proposed Conduct will make Virgin Australia's ability to offer a virtual network of international services more commercially sustainable and shorten the timeframe to launch of codeshare services. The ability to earn and burn points and accrue status credits on a wider range of international services is valuable for loyalty programs and will be valued by Virgin Australia's 10.3 million Velocity members.

5. Will the Proposed Conduct affect cargo transport by the parties? If so, please could you explain.

The Proposed Conduct will not affect cargo transport.

6. Does the Proposed Conduct envisage any type of exclusivity? For instance, under the Proposed Conduct, would Virgin Australia and the Partner Carriers be free to enter into interline, codeshare or frequent flyer relationships with other carriers in

any market? Relatedly, we note that page 2 of the application form, and page 2 and paragraph 1.1(b) on page 4 of the submission from Virgin Australia, taken together, indicate that the Proposed Conduct is not proposed to occur on any international routes (or a flight segment of an international route) involving a city pair where Virgin Australia already operates services, or has pricing control as the marketing carrier (where Virgin has an existing codeshare agreement with other carriers). Please could you explain the issue of exclusivity in the context of those statements, and provide examples to illustrate it?

The Proposed Conduct does not involve exclusivity.

As a matter of practicality and to minimise competition law compliance risks, Virgin Australia will not engage in the Proposed Conduct if it also offers services on overlapping routes where it has pricing freedom over one of those services (whether it operates the route or not).

Virgin Australia may engage in the Proposed Conduct on two or more routes that overlap as in those circumstances it would simply be a price taker. However, practically it is unlikely that this would occur on identical routes. For example:

1. [REDACTED]
2. [REDACTED]

For instance, does this mean, hypothetically, that:

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]

If any of the above questions is unclear, please let us know.

Thanks, and kind regards  
Connie

**Connie Wu**

Assistant Director | Mergers Exemptions and Digital

**Australian Competition & Consumer Commission**

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The ACCC acknowledges the traditional custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.