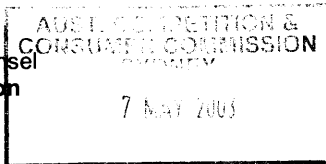


General Counsel  
Brett Johnson



6 May 2003

FILE No:
DOC
MARS/PRISM



Mr Tim Grimwade  
General Manager - Adjudication Branch  
Australian Competition and Consumer Commission  
470 Northbourne Avenue  
DICKSON ACT 2602

Dear Mr Grimwade

**Qantas Airways Limited and British Airways PLC**  
**Application for Reauthorisation of Restated Joint Services Agreement**

Qantas Airways Limited and its subsidiaries (Qantas) and British Airways PLC and its subsidiaries (British Airways) (collectively the Applicants) apply pursuant to section 88(1) of the Trade Practices Act 1974 (TPA) for authorisation to continue to give effect to the Restated Joint Services Agreement (JSA) and any related and consequential coordination of schedules and pricing between the Applicants.

The Restated Joint Services Agreement governs the alliance between Qantas and British Airways. It contains the terms and conditions on which Qantas and British Airways coordinate their business activities in relation to air services provided on routes from Australia to Europe and to and from mid-points.

We enclose the following in support of the application:

1. Forms A and B, the application forms prescribed by regulation for authorisation of exclusionary provisions and agreements affecting competition;
2. supporting submission to the Commission;
3. an independent report prepared by Network Economics Consulting Group Pty Limited (the NECG Report); and
4. a cheque for \$9,000.

**Confidentiality**

The supporting submission and the NECG Report contain commercially sensitive and confidential information, which has been identified by enclosing it within red square parentheses.

The Applicants request pursuant to section 89(5) of the TPA that the Commission exercise its power under section 89(5A) to exclude this information from the register kept by the Commission pursuant to section 89(3).

For the Commission's convenience, we enclose public versions of the supporting submission and the NECG report from which the confidential information referred to above has been deleted.

**Application for Interim Authorisation**

It was originally anticipated that this application would be filed with the Commission at the start of this year. Unfortunately, the demands on Qantas' resources created by the proposed Qantas/Air New Zealand Strategic Alliance, the uncertainties in the aviation industry created by the conflict in Iraq and, more recently, the SARS virus have caused delays in preparation of the application.

We understand that the Commission is concerned that it may not have sufficient time to issue a final decision in respect of this application prior to the expiry of the Applicants' existing authorisation on 21 July 2003.

**Qantas Airways Limited**  
ABN 16 009 661 901  
203 Coward Street Mascot New South Wales 2020 Australia  
Telephone 61 (2) 9691 3456 Facsimile 61 (2) 9691 3339

Accordingly, if the Commission is not able to make a final decision in respect of this application before 21 July 2003, the Applicants request that the Commission grant an interim authorisation of the JSA commencing on 21 July 2003 and terminating on the date which the Commission's final decision in respect of this application becomes effective.

The Applicants consider that grant of an interim authorisation would be appropriate in such circumstances. The Applicants note that the JSA has already been in operation for over seven years and is an arrangement with which the Commission is very familiar, having authorised it on two previous occasions. Any interim authorisation is likely to be in operation for a relatively short period of time and would merely preserve the status quo pending a final decision by the Commission.

Further, as the Commission is no doubt aware, under the JSA the Applicants have established joint teams to manage pricing, inventory and scheduling decisions for all of their services between Australia and Europe. These teams are collocated in Qantas' offices at Mascot, Sydney and draw upon a wide range of shared resources. Separating these functions at short notice to avoid any breach of the TPA during an interim period would create substantial disruption to the Applicants' businesses and could potentially impact upon the provision of services to consumers.

Similarly, many of the Applicants' most sensitive IT systems are linked and are supported by joint teams. Any temporary loss of authorisation would also require separation of these systems and support teams, giving rise to substantial expense and creating a real risk of loss or impairment of services to consumers. A temporary loss of authorisation pending a final decision by the Commission would also be likely to require the Applicants to review operations in a number of countries around the world, where the Applicants share staff and facilities. Accordingly, it would not be in the Applicants' or indeed the public interest for separation of these activities to occur prematurely, pending a final decision by the Commission on a further authorisation of the JSA.

We would appreciate receiving confirmation that the Commission will, if required, grant this interim authorisation.

If you have any questions in relation to this application, please do not hesitate to contact me.

Yours sincerely



Brett Johnson  
General Counsel

cc Roger Featherston  
Mallesons Stephen Jaques

030226

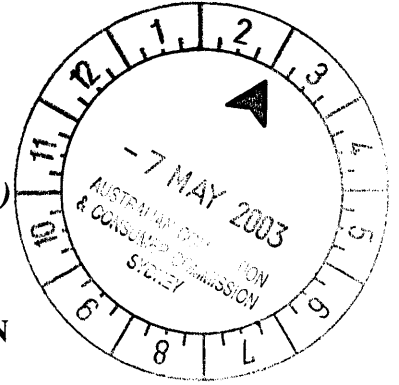
Form A

Commonwealth of Australia

Trade Practices Act 1974 - Sub-section 88(1)

EXCLUSIONARY PROVISIONS:

APPLICATION FOR AUTHORISATION



To the Australian Competition and Consumer Commission:

Application is hereby made under sub-section 88(1) of the *Trade Practices Act 1974* for an authorisation under that sub-section

\* to make a contract or arrangement, or arrive at an understanding, where a provision of the proposed contract, arrangement or understanding would be, or might be, an exclusionary provision within the meaning of section 45 of that Act.

\* to give effect to a provision of a contract, arrangement or understanding where the provision is, or may be, an exclusionary provision within the meaning of section 45 of that Act.

---

1. (a) Name of applicants:

Qantas Airways Limited ABN 16 009 661 901 and its subsidiaries (**Qantas**);  
and

British Airways Plc ARBN 002 747 597 and its subsidiaries (**British Airways**).

(b) Short description of business carried on by applicants:

Both Qantas and British Airways conduct international airline passenger and cargo services.

(c) Address in Australia for service of documents on the applicants:

Qantas Airways Limited  
Building A, Level 9  
203 Coward Street,  
MASCOT NSW 2020

**Attention:**

Mr Brett Johnson  
General Counsel & Company  
Secretary

Tel: (02) 9691 9904

Fax: (02) 9691 3339

Email: [brettjohnson@qantas.com.au](mailto:brettjohnson@qantas.com.au)

British Airways Plc  
c/- Mallesons Stephen Jaques  
Level 60  
Governor Phillip Tower  
1 Farrer Place  
SYDNEY NSW 2000

**Attention:**

Mr Roger Featherston  
Partner

Tel: 02 9296 2143

Fax: 02 9296 3999

Email:

[roger.featherston@mallesons.com](mailto:roger.featherston@mallesons.com)

**2. (a) Description of contract, arrangement or understanding and, where already made, its date**

The Restated Joint Services Agreement dated 3 April 2000 (as amended) and related and consequential coordination of schedules and pricing between the applicants. A summary and copy of the Restated Joint Services Agreement is contained in the submission attached.

**(b) Brief description of those provisions of the contract, arrangement or understanding that are, or would or might be, exclusionary provisions:**

Pursuant to the contracts, arrangements or understandings described in 2(a), the applicants may from time to time enter into and/or give effect to contracts, arrangements or understandings that may constitute or include exclusionary provisions, including but not limited to, in connection with the joint supply or joint acquisition by the applicants of air transportation services and other goods and services.

**(c) Names and addresses of other parties or proposed parties to contract, arrangement or understanding:**

Not applicable.

**3. Names and addresses (where known) of parties and other persons on whose behalf the application is made:**

Not applicable.

**4. (a) Grounds for grant of authorisation:**

Refer to submission attached.

**(b) Facts and contentions relied on in support of those grounds:**

Refer to submission attached.

**5. This application for authorisation may be expressed to be made also in relation to other contracts, arrangements or understandings or proposed contracts, arrangements or understandings, that are or will be in similar terms to the above-mentioned contract, arrangement or understanding.**

**(a) Is this application to be so expressed?**

No.

**(b) If so, the following information is to be furnished:**

**(i) the names of the parties to each other in contract, arrangement or understanding:**

Not applicable.

- (ii) **the names of the parties to each other proposed contract, arrangement or understanding which names are known at the date of this application:**

Not applicable.

6. (a) **Does this application deal with a matter relating to a joint venture (See section 4J of the *Trade Practices Act 1974*)?**

Yes.

- (b) **If so, are any other applications being made simultaneously with this application in relation to that joint venture?**

Yes.

- (c) **If so, by whom or on whose behalf are those other applications being made?**

Qantas and its subsidiaries

British Airways and its subsidiaries

7. **Name and address of person authorised by the applicant to provide additional information in relation to this application:**

Qantas Airways Limited  
Building A, Level 9  
203 Coward Street,  
MASCOT NSW 2020

**Attention:**

Mr Brett Johnson  
General Counsel

Tel: (02) 9691 9904  
Fax: (02) 9691 3339  
Email: brett.johnson@qantas.com.au

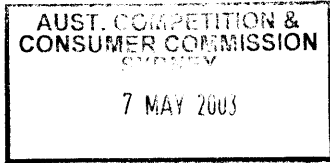
British Airways Plc  
c/- Mallesons Stephen Jaques  
Level 60  
Governor Phillip Tower  
1 Farrer Place  
SYDNEY NSW 2000

**Attention:**

Mr Roger Featherston  
Partner

Tel: 02 9296 2143  
Fax: 02 9296 3999  
Email: roger.featherston@mallesons.com

DATED 5 May 2003



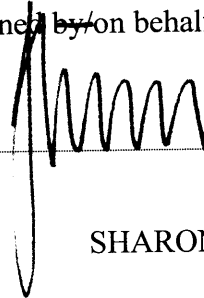
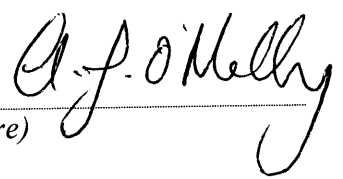
Signed by/on behalf of Qantas Airways Limited

  
*(Signature)*

BRETT STUART JOHNSON  
*(Full Name)*

GENERAL COUNSEL  
*(Description)*

Signed by/on behalf of British Airways Plc

   
*(Signature)*

SHARON LOUISE HENRICK  
*(Full Name)*

SOLICITOR  
*(Description)*

## DIRECTIONS

1. Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.
2. Where the application is made by or on behalf of a corporation, the name of the corporation is to be inserted in item 1(a), not the name of the person signing the application, and the application is to be signed by a person authorised by the corporation to do so.
3. In item 1(b), describe that part of the applicant's business relating to the subject matter of the contract, arrangement or understanding in respect of which the application is made.
4. Furnish with the application particulars of the contract, arrangement or understanding in respect of which the authorisation is sought. Those particulars shall be furnished:
  - (a) in so far as the particulars or any of them have been reduced to writing - by lodging a true copy of the writing; and
  - (b) in so far as the particulars or any of them have not been reduced to writing - by lodging a memorandum containing a full and correct statement of the particulars that have not been reduced to writing.
5. Where the application is made also in respect of other contracts, arrangements or understandings which are or will be in similar terms to the contract, arrangement or understanding referred to in item 2, furnish with the application details of the manner in which those contracts, arrangements or understandings vary in their terms from the contract, arrangement or understanding referred to in item 2.

## NOTICES

1. In relation to item 4, your attention is drawn to sub-sections 90(8) of the *Trade Practices Act 1974* which provides as follows:
 

'(8) The Commission shall not:

  - (a) make a determination granting:
    - (i) an authorisation under sub-section 88(1) in respect of a provision of a proposed contract, arrangement or understanding that is or may be an exclusionary provision; or
    - (ii) an authorisation under sub-section 88(7) or (7A) in respect of proposed conduct; or
    - (iii) an authorisation under sub-section 88(8) in respect of proposed conduct to which sub-section 47(6) or (7) applies; or
    - (iv) an authorisation under sub-section 88(8A) for proposed conduct to which section 48 applies;

unless it is satisfied in all the circumstances that the proposed provision or the proposed conduct would result, or be likely to result, in such a benefit to the public that the proposed contract or arrangement would be allowed to be made, the proposed understanding should be allowed to be arrived at, or the proposed conduct should be allowed to take place, as the case may be; or

- (b) make a determination granting an authorisation under sub-section 88(1) in respect of a provision of a contract, arrangement or understanding that is or may be an exclusionary provision unless it is satisfied in all the circumstances that the provision has resulted, or is likely to result, in such a benefit to the public that the contract, arrangement or understanding should be allowed to be given effect to.'

2. If an authorisation is granted in respect of a proposed contract, arrangement or understanding, the names of the parties to which are not known at the date of this application, the authorisation shall, by sub-section 88(14) of the *Trade Practices Act 1974*, be deemed to be expressed to be subject to a condition that any party to the contract, arrangement or understanding will, when so required by the Commission, furnish to the Commission the names of all the parties to the contract, arrangement or understanding.



## Form B

## Commonwealth of Australia

*Trade Practices Act 1974 - Sub-section 88(1)*

## AGREEMENTS AFFECTING COMPETITION:

## APPLICATION FOR AUTHORISATION

To the Australian Competition and Consumer Commission:

Application is hereby made under sub-section 88(1) of the *Trade Practices Act 1974* for an authorisation under that sub-section

\* to make a contract or arrangement, or arrive at an understanding, a provision of which would have the purpose, or would have or might have the effect, of substantially lessening competition within the meaning of section 45 of that Act

\* to give effect to a provision of a contract, arrangement or understanding which provision has the purpose, or has or may have the effect, of substantially lessening competition within the meaning of section 45 of that Act.

1. (a) Name of applicant:

Qantas Airways Limited ABN 16 009 661 901 and its subsidiaries (**Qantas**);  
and

British Airways Plc ARBN 002 747 597 and its subsidiaries (**British Airways**).

(b) Short description of business carried on by applicant:

Both Qantas and British Airways conduct international airline passenger and cargo services.

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Qantas Airways Limited  
Building A, Level 9  
203 Coward Street,  
MASCOT NSW 2020

**Attention:**

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Secretary

Tel: (02) 9691 9904

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British Airways Plc  
c/- Mallesons Stephen Jaques  
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Governor Phillip Tower  
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SYDNEY NSW 2000

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Mr Roger Featherston  
Partner

Tel: 02 9296 2143

Fax: 02 9296 3999

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- (b) **Names and addresses of parties or proposed parties to contract, arrangement of understanding:**

Not applicable.

3. **Names and addresses (where known) of persons on whose behalf the application is made:**

Not applicable.

4. (a) **Grounds for grant of authorisation:**

Refer to submission attached.

- (b) **Facts and contentions relied on in support of those grounds:**

Refer to submission attached.

5. **This application for authorisation may be expressed to be made also in relation to other contracts, arrangements or understandings or proposed contracts, arrangements or understandings, that are or will be in similar terms to the above-mentioned contract, arrangement or understanding.**

- (a) **Is this application to be so expressed?**

No.

- (b) **If so, the following information is to be furnished:**

- (i) **the names of the parties to each other in contract, arrangement or understanding:**

Not applicable.

- (ii) **the names of the parties to each other proposed contract, arrangement or understanding which names are known at the date of this application:**

Not applicable.

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British Airways and its subsidiaries

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Building A, Level 9  
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**Attention:**

Mr Brett Johnson  
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Tel: (02) 9691 9904

Fax: (02) 9691 3339

Email: [brettjohnson@qantas.com.au](mailto:brettjohnson@qantas.com.au)

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Tel: 02 9296 2143

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DATED 5 May 2003

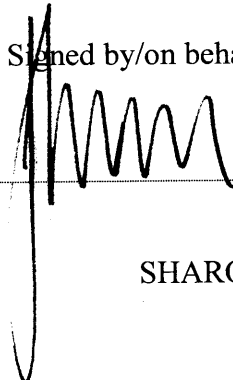
Signed by/on behalf of Qantas Airways Limited

  
\_\_\_\_\_  
(Signature)

BRETT STUART JOHNSON  
(Full Name)

GENERAL COUNSEL  
(Description)

Signed by/on behalf of British Airways Plc

  
\_\_\_\_\_  
(Signature)

SHARON LOUISE HENRICK  
(Full Name)

SOLICITOR  
(Description)

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    - (iv) an authorisation under sub-section 88(8A) for proposed conduct to which section 48 applies;

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- (b) make a determination granting an authorisation under sub-section 88(1) in respect of a provision of a contract, arrangement or understanding that is or may be an exclusionary provision unless it is satisfied in all the circumstances that the provision has resulted, or is likely to result, in such a benefit to the public that the contract, arrangement or understanding should be allowed to be given effect to.'

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