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MINISTER FOR PLANNING AND INFRASTRUCTURE

HON ALANNAH MacTIERNAN
BA LLB BJuris JP MLA

Your Ref: C2003/535

11 JUN 2003

Mr Tim Grimwade
General Manager
Adjudication Branch
Australian Competition & Consumer Commission
PO Box 1199
DICKSON ACT 2602

**MINISTERIAL
URGENT**

Dear Mr Grimwade,

Qantas Airways Ltd and British Airways Plc - re-authorisation of "Restated Joint Services Agreement" (RJSA)

I refer to your letter dated 12 May 2003 to the Government of Western Australia for written comment on the applications for re-authorisation to the Australian Competition and Consumer Commission (ACCC) by Qantas Airways Limited (QF) and British Airways (BA).

The applications are seeking re-authorisation of a "Restated Joint Services Agreement" (RJSA) which provides for the coordination of airline services between Qantas and British Airways on nominated routes including freight, scheduling, marketing, sales, pricing and customer service activities.

The Government of Western Australia (WA Government) supports the re-authorisation of the Agreement for the reasons set out in this submission.

The key aspects of this submission are as follows:

1. Overview:

1.1 The Global situation

The WA Government recognises the uncertainty and volatility of the global aviation industry stemming from a series of events which have occurred since September 2001. The continued 'shocks' to the industry including the war in Iraq and the SARS epidemic, have re-enforced the need to have a strong and competitive Qantas.

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The 'Kangaroo Route' is vital to Qantas' long-term profitability and it is essential the route remains viable to ensure Australia has uninterrupted access to its major in-bound tourism markets in the UK and Europe. The RJSA is recognised as the difference between Qantas being able to achieve profits on this route or incurring significant losses.

2. Public Benefits:

2.1 Product and service benefits

We accept that the combined networks of both carriers broaden consumer choice with regard to destinations, schedules, fares and consumer support. We believe that there would be a reduction in affordable customer choice if the RJSA were not to be re-authorised.

2.2 Cost savings and efficiencies

The RJSA has enabled both airlines to reduce costs and extract efficiencies from their respective organisations. The combining of sales teams and the operation of joint airport lounges are clear examples of these savings.

There is no doubt that should the re-authorisation not be approved, additional costs would be incurred by both carriers in separating their respective operations, potentially leading to higher airfares for consumers.

2.3 Lower fares

Whilst the applicants claim that the RJSA is likely to result in greater availability of discount fares to consumers due to the higher level of capacity made available by the RJSA, we would argue this is more a result of the overall level of industry capacity on the Kangaroo Route, than the RJSA itself.

However, given that Australian capacity is currently determined by bilateral air services agreements between other countries and Australia, scheduling action by the RJSA carriers is likely to have a much greater impact on airfares, particularly if they were to significantly reduce capacity.

2.4 Higher levels of tourism

The applicant's contention that tourist numbers to Australia are higher with the RJSA than without is supported by the WA Government. We believe that Qantas would simply not be able to maintain the current levels of frequency and capacity on the key UK and European routes which are so vital to Australian tourism.

The relationship with British Airways has significantly improved Qantas' ability to attract the higher yielding business traveller ex UK/Europe markets,

something it was not able to achieve whilst operating the routes prior to the original JSA.

Qantas is a vital promoter of Australian tourism and the industry can ill afford any reduction in Qantas capacity in these important European markets.

2.5 International competitiveness of the Australian airline industry

The view that Qantas is a more successful international flag carrier with the RJSA is supported by the WA Government. As stated previously, the access and exposure to the high yield business markets in UK/Europe would not have been possible without the joint working relationship with British Airways. Historically, Qantas was perceived in these markets as purely a leisure carrier and it has taken a great deal of time and effort to change such perceptions.

The WA Government supports Qantas being able to compete long-term in the international marketplace. The RJSA continues to strengthen the ability of both Qantas and British Airways to compete, maintain and grow their positions in a global aviation environment that continues to see long established carriers collapse or be underwritten by their governments.

In order to remain a successful flag carrier Qantas must remain profitable, however the WA Government is not advocating the removal of competition, just the preservation of the status quo through the existing RJSA model that has proved successful to both carriers.

3. Anti-Competitive Effects and Public Detriment

3.1 Market Definition

The WA Government is of the view that the RJSA will not lead to a lessening of competition in the relevant markets. In fact, we believe that competition is more likely to be negatively impacted by the rejection of the re-authorisation than the maintenance of the status quo.

We believe that in the current global aviation climate, there is a high likelihood of frequency and capacity reductions by both carriers on the 'Kangaroo Route' if the re-authorisation of the RJSA is rejected. It is unlikely that this capacity will be replaced by other carriers, due to the current bilateral air services constraints that exist with regard to non UK/Europe or Australian carriers.

Whilst the application for re-authorisation is regarded as one of preserving the status quo and therefore not likely to lessen competition as it currently stands, we believe that strong competition to the RJSA is essential. It is vital that airfares remain affordable and accessible in these major in-bound markets to ensure tourism growth is achieved. There is currently strong competition to the RJSA in all the relevant markets through a range of carriers, and on alternative routes, particularly from South East Asian countries and more recently from the Middle East.

advocate similar arrangements being viewed favourably by the ACCC, should other carriers wish to adopt similar models. It is our view that all carriers need to be financially viable to ensure strong competition is maintained.

The WA Government also feels that the RJSA should not be granted for an indefinite period and would support a further extension of three (3) years, during which time a further review could take place as to whether the RJSA could continue. We base this view on the need to encourage competition in the international airline industry and need for Australia to facilitate competition for existing and new carriers, either individually or as part of a partnership(s) similar to the arrangement between Qantas and British Airways.

3.2 Barriers to Entry

3.2.1 Relevant International Markets

The WA Government regards existing air services bilateral arrangements that exist in all countries along the 'Kangaroo Route', together with constraints associated with landing and takeoff slots at London and Sydney airports, as the most significant barriers to entry for potential competitors to the RJSA.

In particular, should an existing UK or new entrant Australian carrier emerge as a potential competitor to the RJSA, all action should be taken by the appropriate regulators to remove such constraints and facilitate fair and reasonable access.

3.2.2 Australian Domestic Market

Whilst the WA Government views the re-authorisation of the RJSA as maintaining the status quo on the 'Kangaroo Route', we believe there should be no overly restrictive barriers to entry in the Australian domestic market. It is our view that in the current climate and for some considerable time in the future, Australia would appear to be only able to support two fully functioning domestic carriers.

If additional carriers were contemplating entry, it is important that future access to terminal gates, landing and takeoff slots and ground services infrastructure be made available at all major airports within Australia. The Federal Government may see fit to put a timeframe on such access, following which if no new entrant emerges, the gates and slots could be made available to established carriers.

4. Summary

In the interests of stability and airline sustainability, the WA Government supports the re-authorisation of the RJSA for the reasons outlined in this

submission. We are of the view that the RJSA enables Qantas and British Airways to maintain a strong working relationship which allows them to compete more effectively in the current volatile global aviation environment.

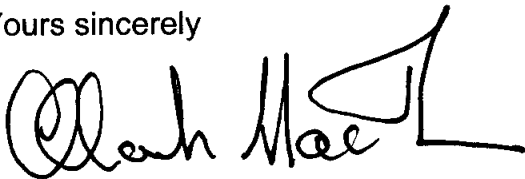
Whilst the RJSA is viewed as maintaining the status quo and providing a model that strengthens the financial viability of both Qantas and British Airways, the WA Government advocates similar arrangements being viewed favourably by the ACCC, should other carriers wish to adopt similar models. We maintain that all carriers need to be financially viable to ensure strong competition is maintained.

It is vital that airfares remain affordable and accessible in the major in-bound markets of UK/Europe to ensure tourism growth is achieved. There is currently strong competition to the RJSA in all the relevant markets through a range of carriers, particularly from South East Asian countries.

The WA Government does not believe it would be in the national interest to terminate the RJSA when it expires on 21 July 2003, particularly when that action is likely to cause widespread disruption to the travelling public at short notice and significantly add to the cost base of Qantas and British Airways through a forced separation. We therefore do not support any new agreement being for an indefinite period and believe any new agreement should be subject to review after a further 3-year period.

Such action is also likely to lead to a reduction in overall capacity on the 'Kangaroo Route', resulting in an increase in average airfares on the routes impacted.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alannah MacTiernan', with a stylized flourish at the end.

**ALANNAH MacTIERNAN MLA
MINISTER FOR PLANNING AND INFRASTRUCTURE**