

Air New Zealand Limited & Qantas Airways Limited
Strategic Alliance
Undertakings to be Provided to the ACCC

Objectives

In their submission to the ACCC, Air New Zealand and Qantas outlined the intention to negotiate a range of enforceable undertakings designed to achieve the following objectives:

1. to facilitate and protect new entry on trans-Tasman routes, including (if necessary) access to terminals, ground services and engineering facilities;
2. to ensure that the Alliance will not take unreasonable actions relating to capacity and prices on routes where the parties will be the sole operators; and
3. to ensure delivery of certain of the public benefits identified in the Application.

The undertakings being considered take into account remedies commonly accepted by overseas regulators.

This Paper outlines the nature of undertakings which the airlines believe address any residual competition concerns and which ensure delivery of the public benefits which flow directly from their Alliance.

1. Entry Facilitation and Protection

These undertakings are designed to facilitate and protect new entry on trans-Tasman routes.

Facilities Undertaking

This undertaking would remove what might be seen as the barriers to entry for an airline commencing trans-Tasman services, by ensuring that it has reasonable access to the following facilities at airports necessary for the provision of airline passenger services:

- airport gates;
- airport counter facilities;
- maintenance services; and
- baggage handling services.

Principal terms of any proposed facilities undertaking:

- facilities to be provided for a maximum of 12 months at full cost to the provider plus an appropriate margin;
- undertaking does not include facilities or services that:
 - ↳ are not necessary for the provision of the trans-Tasman flights to be operated by the new entrant;
 - ↳ can be reasonably or practicably purchased, acquired, provided or replicated by a new entrant;
 - ↳ are not effectively controlled by Air New Zealand or Qantas; or
 - ↳ cannot be reasonably provided by Air New Zealand or Qantas, having regard to existing schedules, operational or safety considerations, or legitimate business justifications; and
- undertaking open for two years from the date of implementation of the Alliance.

Capacity Ceiling Undertaking

The parties would be willing to undertake not to increase combined capacity beyond natural growth on an existing trans-Tasman route operated by a new entrant for a period of one year after the date on which the new entrant announces its intention to commence operating on that route.

Principal terms of any proposed capacity ceiling undertaking:

- applies to trans-Tasman routes operated as at the date of implementation of the Alliance on which the parties will be the sole operators as a result of the Alliance;

- applies for 12 months following the new entrant's announcement of its intention to commence operating its own flights on a route (Announcement);
- Air New Zealand and Qantas will not increase combined capacity by more than the greater of:
 - ↵ 5% per scheduling season;
 - ↵ one return flight per week; or
 - ↵ 25% of the capacity operated by the new entrant on the route;
- the undertaking will be suspended:
 - ↵ if the new entrant does not start accepting bookings within one month of Announcement;
 - ↵ if the new entrant ceases to operate on the route; or
 - ↵ during periods of "abnormal demand"; and
- undertaking open for two years from the date of implementation of the Alliance.

2. Removal of Threat of Misuse of Market Power

The following undertaking is designed to prevent the Alliance carriers from restricting output and increasing prices in respect of routes on which the parties will be the sole operators as result of the Alliance.

Capacity Floor Undertaking

The parties would undertake that they will not reduce capacity on trans-Tasman routes operated as at the date of implementation of the Alliance on which the parties will be the sole operators as a result of the Alliance.

The undertaking will terminate:

- immediately upon another airline commencing operation on the route;
- two years from the date of implementation of the Alliance;
- where load factors for a rolling three month period are below route specific historic load factors; or
- where external events result in a material reduction in demand.

3. Public Benefits

New Services

The Alliance is willing to undertake to commence operating new direct services on at least four trans-Tasman city pairs within one year, as follows:

- eight weekly flights (four return services) between Auckland and Adelaide (expected to develop to a daily service within three years); and
- two weekly flights (one return service) on the following city pairs:
 - ↵ Auckland-Hobart;
 - ↵ Wellington-Canberra; and
 - ↵ Auckland-Canberra.

Subject to negotiation of commercially acceptable agreements with the relevant airports, Air New Zealand and Qantas are willing to undertake to continue operating direct flights on these city pairs for at least one year (subject to material adverse changes to the financial performance of the route).

Tourism

This undertaking will help ensure that the Alliance results in a substantial increase in overseas tourists visiting Australia and New Zealand.

Qantas and Air New Zealand (in conjunction with Qantas Holidays and Air New Zealand Holidays) would be willing to undertake to substantially increase their expenditure on advertising programs and new product offerings designed to increase tourism to Australia and New Zealand. This additional expenditure would be undertaken in conjunction with national and state tourism bodies where that is likely to maximise tourism flow.

Freight

The scheduling efficiencies that will be generated through the Alliance and the use of Qantas wide bodied aircraft across the Tasman will result in an increase in the amount of freight transported across the Tasman.

In addition to the substantial freight capacity which will be available on the parties' trans-Tasman passenger services, the parties are willing to undertake that they will add a minimum of four weekly return trans-Tasman wide bodied "back of the clock" services specifically for freight. Two of these services will operate to Auckland and two will operate to Christchurch. These services will commence within 12 months of implementation of the Alliance and will be subject to market support and to material adverse changes to the financial performance of the services.

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24 January 2003