

14 February, 2003

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The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602



Dear Sir

Re: Submission to the ACCC regarding the proposed Qantas / Air New Zealand Alliance

Thank you for the opportunity to provide a submission on the proposed Qantas Airways Limited (Qantas) and Air New Zealand Limited (Air NZ) alliance (the Alliance).

Brisbane Airport Corporation Limited (BAC) has reviewed the documentation provided by Qantas and Air NZ to the ACCC relating to its application. The delay in our response was to allow time to also comment on the "Strategic Alliance Undertaking" to be provided to the ACCC and only received by us on 31st January 2003.

BAC acknowledge that in an international context the Alliance may be desirable to enable a larger combined organisation to compete more effectively on a world stage.

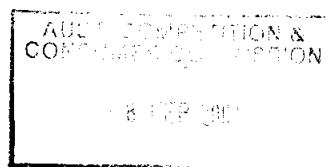
The effect though on competition in the trans-Tasman and Australia – US aviation market as a result of the Alliance is a serious concern. This concern essentially pertains to two interrelated issues, being:

- Inappropriate bilateral regulatory arrangements associated with international air services; and
- Potential for duopolistic outcomes in the trans-Tasman aviation market.

It is the general view of this organisation that wherever possible, market forces should determine the structure of the travel and tourism industry. Economies of scale alone are a significant barrier to entry in the airline industry and further regulation is not desirable.

That said, aviation is probably amongst the most over-regulated industries in the world. Competition is thwarted by complex International Air Services Agreements, originally developed to protect government owned airlines and government owned airports from competition from airlines in other countries. These agreements are slowly being dismantled in the more enlightened countries around the world but are still an impediment to an efficient industry.

Over protection of airlines in the so called "national interest" has resulted in inefficiencies and poor practices in many airlines and airports around the world. The importance of international tourism for the Australian economy can hardly be over estimated.



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BAC note that the Productivity Commission reviewed the issue of international air services in 1998 and concluded that,

‘on balance, liberalisation of trade and investment in international air services is likely to bring substantial benefits to consumers, tourism and other industries reliant on international aviation, as well as efficient airlines’¹.

Further, the review also specifically recommended that:

‘... Australia should seek to negotiate reciprocal ‘open skies’ agreements on a bilateral basis which would remove restrictions on:

- Capacity and frequency to, from, between and beyond Australia and the bilateral aviation partner;
- Codesharing on each other’s airlines;
- Routes, including points of access to the Australian and the bilateral partner’s markets, intermediate and beyond points;
- Multiple designation of airlines by Australia and the bilateral partner;
- Ownership as a basis for airline designation; and
- Prices.’

Such reciprocal agreements should also contain restrictions on government subsidies where these are significant. Australia should also be prepared to negotiate, on a case-by-case basis, removal of restrictions on cabotage and the development of ‘stand alone’ services between bilateral partners and third countries (so called seventh freedom services).²

BAC notes that some of the recommendations from this review associated with liberalisation of international air services have been adopted by the Federal Government. However, in the current global environment of declining participation by airlines in the international aviation market, BAC consider that it is now important that many of the previous recommendations identified by the Productivity Commission be adopted in order to ensure anti-competitive opportunities are minimised.

In the short time since the review, the aviation industry in Australia and around the world has changed dramatically. In the past, lack of competition in the Australian Domestic market covered up inefficiencies in the airlines and resulted in high fares and limited choice for the consumer.

In relation to the “Undertakings To Be Provided To The ACCC” dated 24th January 2003, we have the following comments:-

- To our knowledge neither Qantas nor Air New Zealand have any rights associated with international gates and check-in counters at Australian airports.
- Any undertaking related to the number of seats or services should not be from the date of the implementation of the Alliance but from an earlier date.

¹ Productivity Commission, International Air Services, Inquiry Report, September 1998, p.207

² Ibid, p.229

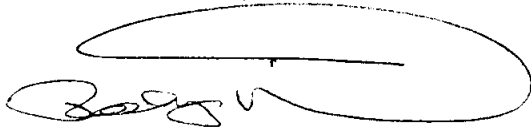
- Undertakings related to new operators should be from the date the new operator commences services, not from the date of any announcement.
- Generally, there are so many provisos / qualifications to the undertakings that it is difficult to see the value of them.

Whilst not opposing the Alliance, in order to minimise anti-competitive outcomes, BAC would expect the following to occur:

- The Australian and New Zealand Governments liberalise the trans-Tasman aviation market through the granting of full rights to all carriers.
- The Federal Government review the Productivity Commission International Air Services Inquiry Report and bring forward implementation of the recommendations and introduce other measures to free up international air services to and from Australia.
- Until such measures are fully implemented, the Australian Competition and Consumer Commission strengthen any undertakings proposed by the Alliance to ensure existing passenger and freight capacity between trans-Tasman city-pairs is not reduced for a period of at least 3 years, or until a new third carrier has operated for a period of at least 12 months, if earlier.

Again, thank you for the opportunity to comment on this important issue, and should you have any queries associated with this submission, please call me on 07 3406 3022 to discuss.

Yours sincerely



Tim Rothwell
Chief Financial Officer

