

Table 11: Australia-UK passenger traffic shares using ABS data, Australian FY1994/95 to FY2001/02

	1994/95	1995/96	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02
Qantas	34%	31%	35%	33%	30%	30%	34%	35%
British Airways	14%	14%	13%	14%	14%	13%	8%	11%
JSA	48%	45%	48%	46%	44%	43%	42%	45%
Air New Zealand	5%	5%	4%	4%	4%	4%	4%	3%
Singapore Airlines	8%	9%	9%	11%	13%	16%	16%	17%
Malaysia Airlines	5%	5%	6%	7%	8%	9%	9%	9%
Japan Airlines	3%	3%	3%	2%	3%	4%	4%	4%
Emirates	0%	0%	1%	1%	3%	3%	5%	4%
Cathay Pacific	6%	6%	6%	6%	6%	5%	4%	4%
Thai Airlines	1%	2%	1%	2%	2%	2%	2%	3%
Royal Brunei	1%	2%	2%	2%	2%	2%	2%	2%
United Airlines	2%	2%	2%	2%	1%	1%	1%	2%
Garuda	5%	4%	2%	2%	2%	2%	2%	1%
Other	16%	17%	15%	14%	11%	10%	9%	5%
Total	100%	100%	100%	100%	100%	100%	100%	100%

ABS data for Australia-France, Australia-Germany and Australia-Italy are presented in the following tables. Between the 1994/95 and 2001/02 Australian financial years, the passenger traffic share of the JSA parties for Australia-France hovered between 42% and 46%, as shown in Table 12. Over the same period, the combined share of Singapore Airlines, Malaysia Airlines, Thai Airways, Cathay Pacific and Emirates increased from 24% to 41%. For the most recent period of authorisation, the JSA share has so far declined by 3 percentage points, while the combined share of Singapore Airlines, Malaysia Airlines, Thai Airways, Cathay Pacific and Emirates has increased by some 9 percentage points.

Table 12: Australia-France passenger traffic shares using ABS data, Australian FY1994/95 to FY2001/02

	1994/95	1995/96	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02
Qantas	35%	35%	36%	35%	37%	38%	40%	38%
British Airways	8%	9%	6%	7%	9%	8%	5%	5%
JSA	43%	44%	42%	42%	46%	46%	44%	43%
Air New Zealand	2%	2%	2%	1%	1%	2%	2%	1%
Singapore Airlines	10%	10%	11%	10%	12%	14%	15%	17%
Cathay Pacific	9%	10%	11%	9%	5%	6%	7%	9%
Malaysia Airlines	3%	5%	5%	8%	9%	8%	8%	8%
Thai Airlines	2%	3%	3%	3%	4%	3%	4%	4%
Emirates	0%	0%	1%	1%	1%	1%	3%	3%
Japan Airlines	2%	2%	2%	1%	3%	2%	2%	3%
Austrian Airlines	0%	0%	0%	0%	0%	0%	0%	1%
United Airlines	3%	2%	2%	1%	1%	1%	1%	1%
Lauda Air	0%	1%	1%	3%	2%	2%	2%	1%
Other	26%	20%	20%	21%	15%	16%	12%	9%
Total	100%	100%	100%	100%	100%	100%	100%	100%

The passenger traffic share of the JSA parties for Australia-Germany fell by around 9 percentage points between the 1994/95 and 2001/01 Australian financial years but recovered over the 2001/02 financial year, as illustrated in Table 13. Despite this recovery, the share of the JSA parties for Australia-Germany fell from 48% to 41% between the 1994/95 and 2001/02 Australian financial years. In contrast, the combined share of Singapore Airlines, Malaysia Airlines, Thai Airways, Cathay Pacific and Emirates almost doubled from 23% to 44% over the same period. For the most recent period of authorisation, the JSA share has increased slightly by 2 percentage points, while the combined share of Singapore Airlines, Malaysia Airlines, Thai Airways, Cathay Pacific and Emirates has increased by around 3 percentage points.

Table 13: Australia-Germany passenger traffic shares using ABS data, Australian FY1994/95 to FY2001/02

	1994/95	1995/96	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02
Qantas	40%	41%	41%	38%	37%	32%	36%	38%
British Airways	8%	6%	12%	8%	8%	7%	3%	3%
JSA	48%	47%	52%	46%	45%	39%	39%	41%
Air New Zealand	4%	6%	4%	4%	3%	3%	3%	2%
Singapore Airlines	11%	13%	12%	15%	20%	20%	20%	20%
Malaysia Airlines	3%	4%	4%	6%	8%	7%	8%	8%
Thai Airlines	2%	3%	4%	5%	4%	6%	4%	6%
Emirates	0%	0%	0%	1%	1%	2%	3%	5%
Cathay Pacific	7%	6%	7%	4%	3%	6%	6%	5%
Austrian Airlines	0%	0%	0%	0%	0%	0%	0%	2%
Japan Airlines	1%	2%	1%	2%	2%	1%	2%	2%
Lufthansa	11%	3%	0%	0%	0%	0%	1%	1%
Garuda	2%	3%	2%	4%	2%	3%	2%	1%
Lauda Air	1%	2%	3%	3%	3%	4%	3%	1%
Other	11%	12%	10%	10%	9%	10%	8%	6%
Total	100%	100%	100%	100%	100%	100%	100%	100%

Table 14 shows that the JSA share of passenger traffic has increased by around 13 percentage points between the 1994/95 and 2001/02 Australian financial years on Australia-Italy. This is likely to be due to the fact that Alitalia no longer operators flights for this route. For the same period, the combined share of Singapore Airlines, Malaysia Airlines, Thai Airways, Cathay Pacific and Emirates more than doubled from 17% to 37%. For the most recent period of authorisation, the JSA share has increased around 4 percentage points, though this increase is small compared with the 13 percentage point increase in the combined share of Singapore Airlines, Malaysia Airlines, Thai Airways, Cathay Pacific and Emirates.

Table 14: Australia-Italy passenger traffic shares using ABS data, Australian FY1994/95 to FY2001/02

	1994/95	1995/96	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02
Qantas	35%	33%	41%	39%	38%	41%	45%	48%
British Airways	5%	5%	4%	5%	6%	8%	4%	4%
JSA	40%	39%	46%	43%	44%	49%	50%	53%
Air New Zealand	1%	1%	1%	1%	2%	1%	2%	1%
Singapore Airlines	6%	8%	7%	9%	13%	12%	14%	17%
Thai Airlines	2%	2%	2%	4%	3%	3%	5%	7%
Malaysia Airlines	3%	3%	3%	3%	4%	5%	6%	6%
Emirates	0%	0%	0%	1%	1%	1%	4%	4%
Cathay Pacific	6%	8%	6%	5%	4%	3%	4%	3%
Austrian Airlines	0%	0%	0%	0%	0%	0%	0%	2%
Japan Airlines	1%	1%	1%	1%	1%	1%	2%	2%
Alitalia	30%	28%	26%	24%	20%	16%	6%	1%
United Airlines	1%	1%	1%	1%	1%	1%	1%	1%
Lauda Air	0%	0%	1%	2%	2%	2%	2%	1%
Other	9%	9%	7%	6%	6%	5%	6%	4%
Total	100%	100%	100%	100%	100%	100%	100%	100%

5.1.2 MiDT passenger share data

Because the MiDT data that we have available is for a shorter timeframe, it does not provide as much information about patterns of structural change in the relevant international air passenger service markets but it does cover the period since the reauthorisation. The data exhibits similar trends to those revealed in ABS data, namely a rise in the share of Asian airlines and of Emirates, albeit from a higher initial base than that set out in the ABS series. Compared with ABS data, MiDT data generally shows lower absolute market shares for the JSA parties. Table 15 and Table 16 present passenger shares for the relevant markets, Australia-South East Asia and Australia-Europe, respectively.⁵⁸

⁵⁸ We do not replicate all the country pair tables with MiDT as they do not add to understanding provided by the ABS market shares tables above.

Table 15: Australia-SE Asia passenger traffic shares using MiDT data, UK FY1998/99 to FY2001/02

	1998/99	1999/00	2000/01	2001/02
Qantas	35%	35%	30%	30%
British Airways	4%	4%	2%	2%
JSA	39%	39%	32%	32%
Air New Zealand	0%	0%	0%	0%
Singapore Airlines	20%	22%	25%	26%
Malaysia Airlines	11%	14%	14%	13%
Garuda	11%	9%	10%	10%
Thai Airways	7%	8%	9%	10%
Vietnam Airlines	1%	1%	1%	2%
Philippine Airlines	1%	0%	1%	1%
Emirates	1%	1%	1%	1%
Cathay Pacific	1%	1%	0%	1%
Gulf Air	0%	1%	1%	1%
Royal Brunei Airlines	0%	0%	0%	0%
Other	9%	5%	4%	3%
Total	100%	100%	100%	100%

Table 16: Australia-Europe passenger traffic shares using MiDT data, UK FY1998/99 to FY2001/02

	1998/99	1999/00	2000/01	2001/02
Qantas	22%	23%	25%	25%
British Airways	13%	13%	9%	8%
JSA	35%	36%	34%	33%
Air New Zealand	1%	1%	1%	0%
Singapore Airlines	15%	16%	16%	20%
Malaysia Airlines	8%	9%	10%	9%
Emirates	3%	3%	5%	5%
Japan Airlines	3%	4%	4%	5%
Cathay Pacific	5%	4%	6%	4%
Thai Airways	3%	3%	3%	4%
Lufthansa	4%	3%	2%	3%
Austrian Airlines	3%	2%	2%	3%
Royal Brunei Airlines	1%	2%	2%	2%
Gulf Air	0%	0%	1%	1%
Garuda	1%	1%	1%	1%
Other	18%	16%	14%	11%
Total	100%	100%	100%	100%

Overall, the trends highlighted by MiDT data at the aggregated market level are also apparent at more disaggregated levels as shown in Table 17, Table 18, Table 19 and Table 20. In the case of Australia-Italy, as noted above in section 5.1.1, the increase in the JSA passenger traffic share is likely to be due to the fact that Alitalia no longer operates flights on this route.

Table 17: Australia-UK passenger traffic shares using MiDT data, UK FY1998/99 to FY2001/02

	1998/99	1999/00	2000/01	2001/02
Qantas	22%	22%	23%	24%
British Airways	18%	17%	12%	12%
JSA	39%	39%	35%	36%
Air New Zealand	1%	1%	1%	0%
Singapore Airlines	15%	18%	17%	21%
Malaysia Airlines	10%	11%	11%	10%
Japan Airlines	5%	6%	6%	7%
Emirates	4%	4%	6%	6%
Cathay Pacific	8%	5%	7%	4%
Royal Brunei Airlines	3%	4%	3%	4%
Thai Airways	2%	2%	2%	2%
Gulf Air	1%	0%	2%	1%
Garuda	1%	1%	1%	1%
Lufthansa	1%	1%	1%	1%
Austrian Airlines	0%	0%	0%	0%
Other	11%	9%	7%	6%
Total	100%	100%	100%	100%

Table 18: Australia-France passenger traffic shares using MiDT data, UK FY1998/99 to FY2001/02

	1998/99	1999/00	2000/01	2001/02
Qantas	25%	36%	33%	34%
British Airways	8%	6%	4%	4%
JSA	33%	42%	37%	39%
Air New Zealand	0%	0%	0%	0%
Singapore Airlines	12%	12%	14%	19%
Cathay Pacific	8%	6%	11%	9%
Malaysia Airlines	11%	9%	10%	8%
Air France	7%	5%	4%	6%
Thai Airways	4%	4%	3%	4%
Japan Airlines	3%	3%	3%	3%
Emirates	1%	2%	3%	3%
Lufthansa	3%	2%	1%	2%
Other	18%	16%	15%	7%
Total	100%	100%	100%	100%

Table 19: Australia-Germany passenger traffic shares using MiDT data, UK FY1998/99 to FY2001/02

	1998/99	1999/00	2000/01	2001/02
Qantas	31%	29%	32%	32%
British Airways	10%	10%	5%	3%
JSA	42%	38%	37%	36%
Air New Zealand	1%	1%	1%	0%
Singapore Airlines	15%	15%	16%	20%
Malaysia Airlines	7%	7%	8%	9%
Lufthansa	10%	8%	8%	8%
Emirates	1%	2%	3%	6%
Cathay Pacific	3%	6%	7%	5%
Thai Airways	4%	5%	3%	4%
Japan Airlines	2%	1%	2%	2%
Garuda	1%	3%	2%	1%
Royal Brunei	0%	1%	1%	1%
Other	12%	13%	11%	8%
Total	100%	100%	100%	100%

Table 20: Australia-Italy passenger traffic shares using MiDT data, UK FY1998/99 to FY2001/02

	1998/99	1999/00	2000/01	2001/02
Qantas	33%	42%	45%	49%
British Airways	4%	4%	3%	2%
JSA	37%	46%	48%	52%
Air New Zealand	0%	0%	0%	0%
Singapore Airlines	11%	9%	10%	15%
Thai Airways	2%	3%	4%	6%
Alitalia	33%	25%	16%	5%
Malaysia Airlines	2%	4%	5%	5%
Emirates	1%	1%	4%	4%
Lufthansa	3%	2%	2%	3%
Cathay Pacific	3%	2%	3%	2%
Japan Airlines	2%	1%	2%	2%
Other	6%	7%	6%	6%
Total	100%	100%	100%	100%

We have also received MiDT data covering passenger trends at the city pair level. As Table 21 shows, the share of the JSA parties for London-Sydney has been steady at just over 40%. However, the Asian carriers and Emirates have maintained a significant presence for this city pair.

Table 21: London-Sydney passenger traffic shares using MiDT data, UK FY1998/99 to FY2001/02

	1998/99	1999/00	2000/01	2001/02
Qantas	24%	25%	25%	25%
British Airways	16%	18%	14%	16%
JSA	40%	42%	39%	42%
Air New Zealand	2%	2%	2%	1%
Singapore Airlines	12%	13%	11%	13%
Malaysia Airlines	7%	7%	7%	7%
Thai Airways	3%	3%	2%	3%
Cathay Pacific	8%	5%	7%	4%
Emirates	0%	0%	7%	5%
Japan Airlines	8%	11%	10%	11%
Others	20%	17%	16%	14%
Total	100%	100%	100%	100%

As Table 22 indicates, the structure of the London-Melbourne route is similar to that for London-Sydney. However, the JSA share has experienced greater fluctuation, though the observed increase in British Airways' passenger share in 2001/02 reflects the introduction of British Airways' services on this route. It is clear that Singapore Airlines and Emirates each has a significant share of the relevant demand.

Table 22: London-Melbourne passenger traffic shares using MiDT data, UK FY1998/99 to FY2001/02

	1998/99	1999/00	2000/01	2001/02
Qantas	28%	33%	31%	29%
British Airways	10%	7%	5%	15%
JSA	38%	40%	36%	44%
Air New Zealand	0%	0%	1%	0%
Singapore Airlines	15%	17%	16%	19%
Malaysia Airlines	8%	10%	8%	7%
Thai Airways	2%	2%	2%	3%
Cathay Pacific	9%	5%	9%	5%
Emirates	14%	14%	14%	11%
Others	15%	12%	14%	11%
Total	100%	100%	100%	100%

MiDT data indicates that the structure for other London city pairs differs significantly. In particular, while passenger shares for the JSA parties on London-Sydney and London-Melbourne have been steady or increasing, for other London city pairs, the JSA parties' share has declined significantly. This is broadly consistent with the discussion contained in section 5.2.1.

On London-Perth (see Table 23), the JSA parties' share has declined around 20 percentage points between the 1998/99 to 2001/02 UK financial years, while Singapore Airlines has grown to be the leading provider. Malaysia Airlines and Royal Brunei also hold a significant proportion for this city pair. The decline in the JSA parties' share reflects, in part, the withdrawal of British Airways services from this route.

Table 23: London-Perth passenger traffic shares using MiDT data, UK FY1998/99 to FY2001/02

	1998/99	1999/00	2000/01	2001/02
Qantas	11%	9%	17%	19%
British Airways	35%	31%	17%	7%
JSA	46%	40%	34%	27%
Air New Zealand	0%	0%	0%	0%
Singapore Airlines	18%	24%	27%	35%
Malaysia Airlines	16%	18%	17%	14%
Thai Airways	1%	2%	2%	3%
Cathay Pacific	6%	3%	5%	3%
Emirates	0%	0%	0%	0%
Royal Brunei	9%	11%	12%	15%
Others	4%	3%	4%	3%
Total	100%	100%	100%	100%

As illustrated in Table 24, while the JSA parties' share has declined by over 10 percentage points, Singapore Airlines has grown significantly to nearly overtake the JSA parties as the leading carrier for London-Brisbane. Malaysia Airlines, Japan Airlines and Royal Brunei also have a significant presence on this city pair.

Table 24: London-Brisbane passenger traffic shares using MiDT data, UK FY1998/99 to FY2001/02

	1998/99	1999/00	2000/01	2001/02
Qantas	14%	13%	16%	18%
British Airways	22%	21%	13%	7%
JSA	36%	34%	29%	25%
Air New Zealand	1%	1%	1%	0%
Singapore Airlines	12%	14%	15%	23%
Malaysia Airlines	10%	12%	12%	10%
Thai Airways	1%	1%	2%	2%
Cathay Pacific	10%	4%	7%	4%
Emirates	0%	0%	0%	0%
Japan Airlines	12%	15%	17%	19%
Royal Brunei	10%	13%	11%	13%
Others	9%	6%	6%	4%
Total	100%	100%	100%	100%

Similarly, Table 25 shows that while the JSA parties have suffered a 10 percentage point loss in passenger share for London-Adelaide, Singapore Airlines and Malaysia Airlines have each grown substantially to hold passenger traffic shares that nearly match those of the JSA parties.

Table 25: Adelaide-London passenger traffic shares using MiDT data, UK FY1998/99 to FY2001/02

	1998/99	1999/00	2000/01	2001/02
Qantas	32%	26%	24%	26%
British Airways	10%	10%	6%	6%
JSA	42%	36%	30%	32%
Air New Zealand	0%	0%	0%	0%
Singapore Airlines	14%	20%	22%	28%
Malaysia Airlines	25%	30%	32%	25%
Thai Airways	0%	0%	0%	0%
Cathay Pacific	10%	6%	8%	6%
Emirates	0%	0%	0%	0%
Others	8%	7%	7%	8%
Total	100%	100%	100%	100%

Table 26 shows that, despite the JSA parties holding a significant share for London-Cairns, Japan Airlines has almost doubled its passenger traffic share in three years. Malaysia Airlines and Cathay Pacific also have a significant presence on this city pair. The Singapore Airlines share for 2001 reflects its withdrawal of services on this route.

Table 26: Cairns-London passenger traffic shares using MiDT data, UK FY1998/99 to FY2001/02

	1998/99	1999/00	2000/01	2001/02
Qantas	36%	27%	28%	34%
British Airways	11%	12%	8%	9%
JSA	47%	39%	37%	43%
Air New Zealand	1%	1%	1%	1%
Singapore Airlines	16%	16%	18%	2%
Malaysia Airlines	6%	9%	9%	10%
Thai Airways	0%	0%	0%	0%
Cathay Pacific	8%	9%	6%	7%
Emirates	0%	0%	0%	1%
Japan Airlines	18%	25%	26%	35%
Others	4%	2%	3%	2%
Total	100%	100%	100%	100%

5.1.3 Flag carriers passenger shares

As shown above, using MiDT data, the JSA parties have a passenger traffic share of 33% for the Australia-Europe market and a 36% share for Australia-UK. To place this in context, the Commission may find relevant the fact that, if the JSA were reauthorised, the combined share of the JSA Parties would still be significantly lower than the individual market shares of flag carriers operating on short haul routes within Europe and long haul routes between Asia and Europe, as presented in Table 27. (In constructing this table, we have selected country-pairs so as to compare the passenger traffic share of the JSA parties with a combination of country-pairs both with and without deep alliances between the home carriers.)

Table 27: Passenger traffic share of flag carriers for selected intra-European and South East Asia-Europe country-pairs

Country-Pair	Flag Carriers (1, 2)	Deep Alliance (Yes/No)	Flag carrier 1	Flag carrier 2	Combined
Short-haul:					
Spain - Switzerland	Iberia, Crossair	No	35%	32%	67%
Germany - Austria	Lufthansa, Austrian Airlines	Yes	63%	31%	94%
Netherlands - France	KLM, Air France	No	45%	40%	85%
Italy - France	Alitalia, Air France	Yes	47%	38%	85%
Long-haul:					
Germany - Hong Kong	Lufthansa, Cathay Pacific	No	43%	39%	82%
Germany - Singapore	Lufthansa, Singapore Airlines	Yes	48%	26%	74%
Denmark - Singapore	SAS, Singapore Airlines	No	46%	25%	71%
Australia-UK	Qantas, British Airways	Yes	24%	12%	36%

Source: MiDT.

5.2 Entry and expansion barriers

Overall, the data on market shares suggests that the JSA parties have experienced continuing erosion in their market presence over the period of authorisation. At the same time, considerable changes have occurred in the competitive base, as European-based carriers have left the market, while Asian carriers and Emirates have expanded. These movements in market shares are clearly relevant to a consideration of the extent of entry and expansion barriers, to which we now turn.

In Determination A30202, the Commission reiterated its previously expressed view that there were regulatory and commercial barriers to entry to both international and domestic

markets, including those relating to capital requirements, the availability of capacity and access to airport facilities.⁵⁹

The Commission focused on the markets for Australia-South East Asia and Australia-Europe. The Commission believed that it was relevant to consider entry barriers for Australia-South East Asia and Australia-Europe given the market share of British Airways and Qantas. It noted the impact that bilateral agreements might have on competition on Australia-Europe routes, suggesting that an open skies agreement between Australia and the United Kingdom might provide the JSA parties with a significant competitive advantage relative to sixth freedom operators. The Commission was also concerned that Asian airlines operating under sixth freedom rights might withdraw if economic conditions were to improve. The Commission did, however, recognise the impact of new entry onto Australia-Europe routes over the JSA period. The Commission also believed that entry barriers were relevant for the Australia-North Asia market. However, the Commission was of the view that entry barriers were not very relevant for the Australia-North/South America, Australia-Africa and Australia-Oceania markets.

As is apparent from the data set out in section 5.1, the Commission's concerns over the possible withdrawal of services in the relevant international air passenger service markets by Asian airlines have not been realised. On the contrary, Asian airlines and Emirates have generally maintained and, in some instances, substantially increased, their passenger shares.

Our views regarding entry and expansion barriers have been summarised at the beginning of section 5. The following sections contain a more detailed analysis of the factors that inform our views.

5.2.1 Network and density economies

For reasons set out in section 3, the advantage associated with operating a hub or mini-hub midway between Australia-Europe O/Ds is the most significant factor that underpins competitive dynamics in the Australia-Europe market. For the same reasons, we see network and density economies as being the key barrier to entry and expansion in the Australia-Europe market.

⁵⁹ Determination A30202, p. 57.

That is, because Asia and the Middle East provide natural mid-point hub locations for the Australia-Europe market, all other things being equal, airlines whose home base is an airport located in these regions are advantaged relative to other airlines. Through their geographic position, they can obtain network and density effects that other airlines find difficult to match. The result will be to deter entry and expansion in the Australia-Europe market by carriers who do not operate mid-point hubs.

Having said this, we do believe that entry and expansion barriers are lower for airlines wishing to provide services along denser city pairs. To be specific, our view is that the volume of traffic between Sydney and London especially would make it easier for an airline to enter or expand on this city pair absent the operation of a mid-point hub in the event that existing airlines attempted to raise prices, as compared with other city pairs relevant to the JSA. This is largely due to the sheer volume of traffic that characterises this city pair. Table 28 shows that Sydney-London is clearly the largest Australia-Europe city pair.⁶⁰

⁶⁰

While London-Sydney is the densest route in the Australia-Europe market, it is still small relative to other markets outside the JSA routes that are served by the JSA parties. For example, in terms of passenger traffic volumes, London-Sydney is roughly one fifth the size of London-New York.

Table 28: Top 20 Australia-Europe city pairs, UK FY2001/02

	O/D City pair	UK FY2001/02 Passengers
1	Heathrow-Sydney	393,487
2	Heathrow-Melbourne	195,149
3	Heathrow-Perth	148,328
4	Heathrow-Brisbane	139,128
5	Frankfurt-Sydney	85,046
6	Paris-Sydney	53,796
7	Manchester-Sydney	45,070
8	Athens-Melbourne	43,300
9	Adelaide-Heathrow	42,188
10	Athens-Sydney	42,085
11	Frankfurt-Melbourne	40,348
12	Amsterdam-Sydney	39,033
13	Rome-Sydney	35,718
14	Sydney-Vienna	33,302
15	Sydney-Zurich	32,879
16	Rome-Melbourne	32,104
17	Dublin-Sydney	30,494
18	Manchester-Perth	30,187
19	Cairns-Heathrow	29,355
20	Manchester-Melbourne	26,271

Source: MiDT.

As a result, this city pair can accommodate a greater number of airlines operating the route at minimum efficient scale. This is reflected in Table 29, which shows that Sydney-London is serviced by a greater number of airlines providing greater cumulative frequency than are the other routes on which the JSA parties operate.

Table 29: Total airline capacity for selected city pairs, week ending 1 February, 2003

City pair	Number of airlines operating	One-stop services per week
London-Sydney	9	124
London-Melbourne	5	70
London-Perth	6	53
Brisbane-London	6	39
Rome-Sydney	6	25

Source: Amadeus, week ending 1 February, 2003.

We therefore believe that even airlines that do not control significant mid-point hubs would be better placed to overcome the entry and expansion barriers arising from hub effects for the Sydney-London city pair in the event that other airlines operating this city pair attempted to raise prices, as compared with other city pairs relevant to the JSA. For most other city pairs, we believe that there will be a more significant asymmetry in revenues and costs, and hence in entry and expansion opportunities, as between those carriers that control a hub at a mid-point and those that do not.

Consistent with the discussion contained in section 3, for the Australia-South East Asia market, hub effects do not pose a significant entry or expansion barrier for airlines with hubs located in Australia or South East Asia, as they would be operating hub-to-spoke. However, they would pose a significant entry and expansion barrier for European based airlines, which would effectively be operating spoke-to-spoke.

5.2.2 Bilateral restrictions

Bilateral restrictions are a second possible source of entry and expansion barriers. Internationally, regulation has occurred by means of bilateral air services agreements (ASAs) between countries, which grant the right to various 'freedoms of the air' to each country's designated (otherwise referred to as 'authorised') airlines, a basic system of air rights

established under the Chicago Convention 1944.⁶¹ The most relevant freedoms for the purpose of analysing the JSA are third, fourth, fifth, and sixth freedom rights. To explain the implications of these freedoms, let us consider as an example a bilateral agreement between Country A and Country B from the perspective of a designated Country A airline:

- Third freedom rights allow the airline to carry traffic from Country A to Country B.
- Fourth freedoms rights allow the airline to carry traffic from Country B to Country A.
- Fifth freedom (or 'beyond') rights allow the airline to carry traffic from Country B to a third country, provided that the flight originates or terminates in Country A.⁶²
- Sixth freedom rights allow the airline to carry traffic between Country B and a third country via Country A. We refer to Asian and Middle Eastern airlines flying between Australia and Europe as sixth freedom carriers.⁶³
- An 'open skies' agreement between Country A and Country B typically allows designated airlines of each country to operate unlimited frequencies and/or capacity between the two countries.

For reasons outlined in detail in Appendix C, and summarised here, we do not view bilateral restrictions as a strong constraint on the intensity of competition to the JSA parties, at least in the current situation and in the likely medium term. That said, bilateral

⁶¹ Typically, to qualify as a 'designated' airline for any given bilateral agreement between two countries, an airline must meet certain ownership and control requirements with respect to one of these countries. Hence, as an example, in order to use the entitlements under an Australia-Malaysia bilateral agreement, an airline must typically be majority Australian or Malaysian owned and controlled.

⁶² The ability to exercise these rights also requires permission of the third country.

⁶³ Sixth freedom rights are essentially a combination of a third and fourth freedom rights. In practice, airlines we refer to as sixth freedom carriers actually rely upon third and fourth freedoms to provide services on the Kangaroo Route.

restrictions are an important issue in respect of Qantas' access to some of the destinations affected by the JSA, and most notably to France.⁶⁴

As discussed in section 4.2, we have defined the relevant geographic market as being Australia-Europe, reflecting the scope for substitution between different types of indirect services. This in itself suggests that we should not be overly concerned with the impacts of bilateral restrictions on specific routes between city pairs. However, we take a conservative approach to analysing expansion barriers by considering the extent to which airlines have the potential to expand on specific routes between country and city pairs.

Proceeding on this basis, our views on the extent to which bilateral agreements restrict entry and expansion in the relevant markets can be summarised as follows:

Third and fourth freedom entitlements for designated Australian and European airlines to fly between Australia and European countries

There are capacity constraints for designated Australian airlines wishing to operate between Australia and France (though no practical constraints exist for French designated airlines). Capacity constraints also exist for designated Austrian airlines wishing to operate between Australia and Austria (though no constraints exist for Australian designated airlines).⁶⁵ However, there are no other constraints imposed by Australian bilateral agreements with other European countries that would prevent an Australian airline (or its foreign counterparts) from expansion.

The fact that designated French, German and Italian airlines have not used any of their available capacity entitlements suggests that bilateral restrictions are not the reason why they do not operate services in the Australia-Europe market.

⁶⁴ Absent the JSA, and hence absent the preferential access Qantas obtains to British Airways' short haul network within Europe, these restrictions could materially affect Qantas' ability to compete for traffic to and from Paris. In this sense, absent the JSA, bilateral restrictions are likely to be a factor shaping competition.

⁶⁵ The Austrian Government has recently sought to double the capacity entitlements for its carrier. The Australian Government is currently processing this request.

It is important to note that airlines designated in a European Union country are able to fly on an unrestricted basis within the European Union. While bilateral agreements between Australia and any given European country typically stipulate that an airline designated by the European country must originate the flight at its home port, the absence of bilateral restrictions among European Union countries is likely to facilitate the provision of indirect services for European based airlines, consistent with the discussion contained in section 4.2. For example, all European carriers with rights to operate to Australia can freely use their intra European service networks to feed traffic, at their home ports, between their European flights and their services, and those of their alliance partners, operated to and from Australia. European carriers serving Australia have traditionally used their Australian service rights in this manner. Similarly, these carriers undertake the same hubbing practices to carry traffic between Europe and Asia, between Europe and North America, and between Europe and other destinations.

Third and fourth freedom entitlements for designated Australian and Asian/Middle Eastern airlines to fly between Australia and Asian/Middle Eastern countries

Designated Hong Kong carriers currently use all entitled capacity under the Australian-Hong Kong bilateral agreement. However, negotiations are underway to significantly increase capacity entitlements.⁶⁶ Under other existing bilateral agreements, Singapore Airlines, Thai Airways, Malaysia Airlines, Emirates, Gulf Air and Japanese airlines all have available capacity to commence or expand services between Australia and their respective home countries. Moreover, with the exception of Thai Airways and the Japanese airlines, the Governments of each of these carriers have submitted requests for further increases in capacity to Australia. Air services discussions with each of these will take place over the next two to three months.

⁶⁶ More generally, history suggests that when a carrier appears to be becoming capacity constrained into Australia, the Australian Government has almost invariably been prepared to grant more capacity. Hence, even where a carrier may appear to be close to fully using its available capacity, in reality, bilateral agreements are rarely a long-term constraint to expansion or entry for foreign airlines.

Third and fourth freedom entitlements for designated Asian/Middle Eastern and European airlines to fly between Asian/Middle Eastern and European countries

With the exception of designated Japanese airlines, Asian/Middle Eastern airlines are not constrained between their home countries and the UK. It is difficult to draw conclusions about the scope for Asian airlines to expand further on other European routes, given that information on Asian European bilateral agreements is hard to obtain. However, the market share analysis contained in section 5.1 tends to suggest that, at least thus far, bilateral restrictions have not impeded or at least prevented substantial expansion by Asian airlines.

Fifth freedom entitlements for designated Australian airlines to fly beyond Asia to Europe

Finally, it is also relevant to consider the extent to which (lack of) fifth freedom rights constrain airlines expanding in the Australia-Europe market. It is as a result of fifth freedom or beyond rights that Qantas flights originating in Australia can pick up passengers and fly beyond Singapore to (say) the UK. Using this example, Australia requires permission from both the Singapore and UK Governments in order to operate beyond services between Singapore and the UK. Fifth freedom restrictions could potentially constrain expansion in the Australia-Europe market in two ways:

- First, they might prevent Australian airlines flying beyond Asian ports to European destinations.
- Second, they might prevent European airlines flying beyond Asian ports to Australian destinations. However, we proceed on the basis that European airlines are not constrained by fifth freedom rights. As noted above, few European airlines currently provide services between Europe and Australia. However, as noted below in section 5.2.5, a number of European airlines have previously provided these services. If fifth freedom rights did in fact restrict European airlines from flying beyond Asia, then it would not have been possible to deliver these services in the past.

Fifth freedom restrictions would not be expected to constrain Asian hub operators, since these airlines only require third and fourth freedom rights to serve the Australia-Europe market.

The information we have indicates that, generally, fifth freedom restrictions do not constrain expansion by Australian airlines. Designated Australian airlines are not constrained by fifth freedom rights for Singapore, Thailand and Malaysia. However, designated Australian airlines are constrained by bilateral agreements with Hong Kong and Japan.

There are good reasons to suggest that the JSA assists in lowering expansion barriers that might arise from Hong Kong freedom restrictions especially. In particular, while Qantas and British Airways do not include their respective services to Hong Kong in the JSA for the benefit sharing, the joint pricing and interline cooperation between Qantas and British Airways for the carriage of traffic between Australia and Europe over Hong Kong enables Qantas to provide an alternative one-stop routing to and from the UK and an alternative stopover point in Asia.⁶⁷ The JSA also helps British Airways to provide for traffic wishing to travel over Hong Kong. British Airways does not have the rights at present to extend flights beyond Hong Kong to Australia.

It could be argued that Qantas and British Airways could achieve these same objectives through the oneworld marketing alliance. However, with carrier cooperation, Qantas and British Airways can manage Australia-Hong Kong and UK-Hong Kong service inventory to accommodate UK-Australia passengers. Indeed, the ability to coordinate Hong Kong inventories is important for managing Australia-Europe traffic during peak load periods. During these periods, were it not for this coordination, the volume of passengers using Singapore and Bangkok sectors to connect through to Australia and Europe would constrain the number of seats available for O/D traffic to these ports.

5.2.3 Access to airport facilities

The information we have obtained from Qantas is that it is difficult to obtain landing slots at some airports relevant to the JSA at specific times of the day. For instance:

- In Australia, there are limited periods in which Sydney Airport experiences a degree of slot congestion. However, there are no such congestion constraints at

⁶⁷ At present, British Airways operates 14 London-Hong-Kong services per week and Qantas operates 30 Australia-Hong Kong services per week (to and from Sydney, Melbourne, Brisbane and Perth). Australian Airlines provides 3 Cairns-Hong Kong services per week.

other Australian airports. Moreover, to the extent to which there are slot congestion is an issue at Sydney Airport, these may relate to the artificial 'ring fencing' of slots previously used by Ansett.

- In Asia, there is a shortage of slots at Singapore between 0800 to 1000 and 1830 to 2400, with no slots available at 2300. Bangkok also has a shortage of late night slots. There are significant slot constraints at the major Japanese airports. However, no slot constraints exist at Hong Kong or Kuala Lumpur.
- We also understand that there may be difficulties associated with obtaining slots at Paris and Frankfurt, though at Charles de Gaulle it is envisaged that slot shortages will diminish as its runway and terminal expansion program is completed.

In London, there is substitutability between airports, as demonstrated by the fact that Emirates operates very successfully out of Gatwick (and intends expanding services from Dubai to Gatwick in 2003), indicating that, at least for long haul services, London Gatwick and London Stansted provide alternatives for services to London Heathrow.⁶⁸ For transit services via the UK, there is even greater scope for substitution (e.g. Manchester, Glasgow, Birmingham). Emirates, for instance, operates daily to Manchester and daily to Birmingham, and will add a second daily to Manchester in June 2003.

Doubtless of commercial significance, nonetheless, we believe that slot constraints are best viewed as a factor that increases all airlines' costs, and complicates scheduling and capacity expansion – especially for services provided in the relevant international air passenger service markets, where there are only a limited number of time segments in which flights can operate. Ultimately, their impact on market shares is nonetheless limited, as there is still scope for substitution between more and less congested airports. The experience of the Asian carriers, who managed to substantially increase their overall capacity and market share, is consistent with this inference, as is Emirates' success in serving the London market out of a London airport other than Heathrow.

⁶⁸ This is not to say Emirates only operates out of Gatwick. In addition to operating successfully out of Gatwick, Emirates operates numerous flights out of Heathrow.

5.2.4 Capital costs

There is evidence suggesting that at least some airlines competing in the relevant markets are not subject to the same market disciplines as the JSA parties. In particular, despite any claims that they might operate on a strictly commercial basis, there is evidence to suggest that there are cost asymmetries between the JSA parties and some of their competitors in the relevant markets resulting from the government support that these competitors receive. This support includes lending by government (on terms) that would not occur in efficient capital markets. For instance:

- In 2002, Malaysia Airlines was involved in a US\$2.4bn rescue Government package following a persistent period of financial difficulty. As part of the rescue package, the airline was brought back under majority government ownership. Following the restructure, Malaysia Airlines will be transformed into a company with few assets and no debts. It will focus on international passenger and cargo businesses. Malaysia Airlines' loss-making domestic operations have been transferred to a state-owned company. Malaysia Airlines will now operate domestic services on behalf of the state for a fee.
- It is highly unlikely that Thai Airways is required to operate on a commercial basis. For instance, it has received Government assistance with meeting capital requirements in repaying a short term loan of US\$300m for aircraft financing. Recently, the chairman of Thai Airways has proposed that the Thai Government retain a majority stake "to ensure the national flag carrier continues to play a significant role in generating steady revenue for the tourism industry".⁶⁹ This might suggest that Thai Airways has a 'loss leading' role rather than a requirement, in and of itself, to be profitable.
- The Singapore Government has created a S\$210 million Air Hub Development Fund to be used for discounts on aircraft landing fees and rentals, and incentives to attract new services and expand the activities of existing airlines. The fund is likely to benefit all airlines operating out of Singapore. However, because Singapore Airline's traffic through Singapore is significantly greater than that for other airlines, it is likely to benefit more from this fund than other airlines.

⁶⁹ http://www.ait.co.th/Features/news/dailynews/20020902_06.html.

- As a 100% Government owned enterprise, Emirates is able to borrow at the sovereign risk rate for debt. Emirates is also not required to pay corporate tax. In addition, Emirates-dedicated facilities worth AUD\$2.5b are under construction at Dubai airport and will open in 2005. It is not clear whether these investments have a positive net present value.

Overall, it is difficult to conclusively demonstrate that airlines competing against the JSA in the relevant markets have lower capital costs due to the close relationships with their respective Governments. Nonetheless, the evidence presented above is certainly suggestive of a significant cost asymmetry between the JSA parties and their competitors on JSA routes. More generally, the closeness of the ties between the airlines surveyed and their national governments and the less developed antitrust regimes under which they operate may afford them advantages over companies that are accountable to shareholders and commercial investors and operate under well established antitrust regimes.

5.2.5 Entry, exit and expansion over the JSA period

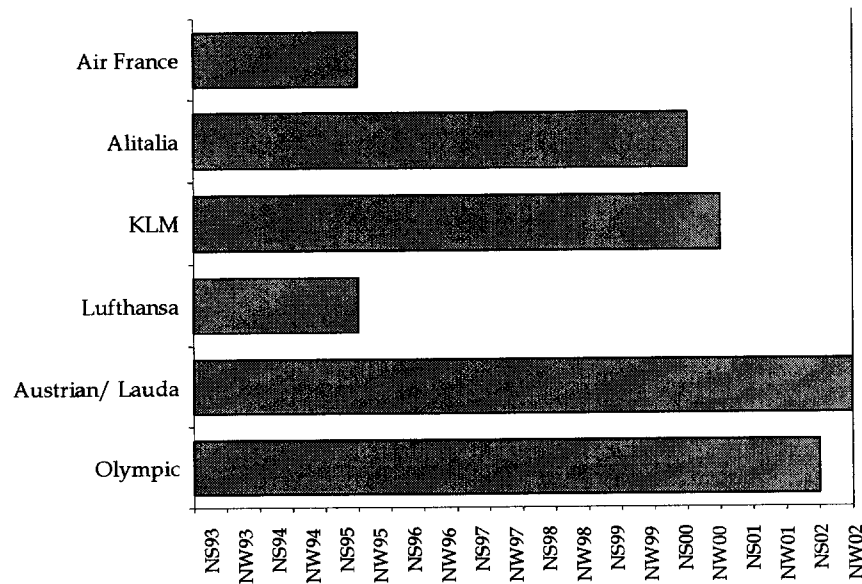
Our views as to the significance of the different factors that give rise to entry and expansion barriers, particularly the importance of hub effects discussed in section 5.2.1, are supported by market observations, especially observed patterns of entry, exit and expansion. The data presented in section 5.1 highlights the pattern of expansion by Asian and Middle Eastern hub airlines, both in the Australia-South East Asia and the Australia-Europe markets. However, that discussion perhaps does not highlight the pattern of exit, and more specifically, the extent to which European airlines have been significantly marginalised or induced to leave the Australia-Europe market.

Figure 2 shows the pattern of exit by European airlines over the past decade. As

Figure 2 illustrates, since 1993, Air France, Alitalia, KLM, Lufthansa and, most recently, Olympic, have all ceased operating in the Australia-Europe market.⁷⁰ Lauda/Austrian is the only European carrier, other than British Airways, which continues to operate to this day on the Kangaroo Route.

⁷⁰ As noted in Appendix C, however, Alitalia codeshares with Qantas.

Figure 2: Pattern of operation by European airlines for Australia-Europe, 1993 to 2002



Source: Qantas.

These carriers did not face constraints associated with bilaterals or limitations on access to slots. Rather, the key difficulty they faced would appear to have been that of securing profitable load on hub-spoke-spoke routes (see section 3) as Asian carriers operating spoke-hub-spoke routes increased capacity. This difficulty was then compounded by the rising pressure on these airlines to operate on a strictly commercial basis – pressure some of their competitors (such as Thai Airways, Malaysia Airlines and Emirates) do not appear to face.

Equally, even though Asian carriers and Emirates may have faced some difficulties associated with bilaterals and slot constraints, they managed to substantially expand their presence on the JSA routes. Control of mid-point hubs, and in some cases government financial support, particularly helped them to make material inroads. It is consequently these factors, rather than the more familiar entry barriers associated with bilaterals and slot constraints, that appear to be of greatest significance in shaping competitive outcomes on the routes affected by the JSA.

As a final point, it is important to note that while the trend has been for European airlines to cease operating flights to Australia, both Lufthansa and KLM have replaced these with

extensive codeshares on Asian airlines competing with the JSA parties. Specifically, Lufthansa continues to operate its own flights to Singapore and Bangkok but also codeshares with Singapore Airlines on flights between Singapore and Germany and with Thai Airways on flights between Bangkok and Germany. Lufthansa codeshares to Australia on most Singapore Airlines and Thai Airways flights. KLM operates services between Amsterdam and Kuala Lumpur and also codeshares with Malaysia Airlines on this city pair. It also codeshares on most Malaysia Airlines services between Malaysia and Australia.

This has two effects. First, it enables these airlines to maintain a presence on the Kangaroo Route as competitors to the JSA parties. Second, it strengthens the services of those Asian airlines on which they codeshare, for instance, by assisting these Asian airlines to generate the scale to provide more services to Australia than if they operated alone. In summary, while the tendency has been for European airlines to cease operating services on the Kangaroo Route, their codeshare presence should be taken into consideration when analysing the overall competitive constraints imposed on the JSA parties.⁷¹

5.2.6 Likely entry

In this particular instance, likely entry and expansion by airlines in the relevant markets are not crucial to our view as to the future state of the world with and without a reauthorised JSA, and hence, the competitive effects associated with a reauthorised JSA. As shown in section 5.1, there is already considerable competition in the relevant international air passenger service markets, which suggests that the impact of any further entry or expansion might well be limited.

Nonetheless, we note that several airlines have publicly expressed interest in commencing or expanding services. These include Emirates, Virgin Atlantic, Virgin Blue, Gulf and Dragon Air:

⁷¹ We note that a similar situation exists in respect of Alitalia, which has withdrawn from operating Australia-Italy services, though now codeshares with Qantas. While these same two effects are also likely to benefit Alitalia and Qantas, it is clear, as demonstrated in section 7, that despite this support, profitability has still been low on this route.

- Emirates has recently announced that it will commence daily non-stop flights from Dubai to Sydney from 26 October 2003, using ultra long-range Airbus A340-500s. This will cut travel time considerably, not only from the UAE but also from gateways in Europe, the Middle East and Africa. That same day, Emirates will launch daily wide-bodied Boeing 777-300 services to Brisbane via Singapore, adding to its Sydney, Melbourne and Perth services. The first A340-500s will also serve Osaka, Japan four times a week and will allow Emirates to serve London Gatwick three times a day. Emirates is also in the process of revising its flight schedule. Emirates will start double daily services from Dubai to Munich from 31 March 2003, to Tehran from 1 May, to Manchester from 1 June, to Muscat from 1 July, and to Hong Kong from 26 October. Emirates will have a fleet of 56 by 31 March, 2004, a dedicated Emirates terminal at Dubai International Airport by 2005 (see section 5.2.4), while the first of its 22 Airbus A380s will arrive in 2006.
- Malaysia Airlines announced in late January 2003 that it is embarking on an expansion plan.⁷² Malaysia Airlines' expansion will include three additional B777 services between Kuala Lumpur and Melbourne, an additional Airbus A330 service to Perth, three additional B747 services to Paris, and conversion of B777 to B747 to Amsterdam.
- The UK Government has entered into negotiations with the relevant Hong Kong authority to secure rights for UK carriers to extend services beyond Hong Kong to Australia. Qantas understands that this is being done largely to satisfy the requirements of Virgin Atlantic. In particular, if these rights were secured, this would enable Virgin Atlantic to link with its London-Hong Kong services, thereby enabling it to compete on Australia-UK routes.⁷³ Even if these rights were not secured, a combination of Virgin Atlantic and Virgin Blue services could be used to compete on these routes using existing entitlements. In this respect, we note that Virgin Blue is considering commencing international flights, including to Hong Kong. Moreover, Virgin's Sir Richard Branson has stated that the substantial Virgin Blue domestic fleet could be used to provide more than adequate feeder services to these international flights.

⁷² <http://www.malaysiaairlines.com.my/corporate/?menu=mr&mode=mas01&mode2=67>.

⁷³ *Australian Financial Review*, 2002, Branson seeks rights to fly Australia-HK, 6 November.

- Gulf Air also intends to recommence services to Australia.⁷⁴ Gulf is interested in operating daily services to Sydney, with possible expansion to other Australian cities.
- Qantas also understands that Dragon Air intends to commence passenger and freight services between Australia and Hong Kong. Dragon Air has now been granted its Hong Kong Government licence for scheduled services to new foreign destinations, including Australia.
- If Australia and Qatar secure an air services agreement, this will facilitate entry on the Kangaroo Route by Qatar Airlines. Qatar Airlines currently serves the UK and other European countries, as well as Asian ports, including Bangkok, Kuala Lumpur and Jakarta.

In summary, given that competition in the relevant international air passenger service markets is already intense, further entry might not be needed to ensure that the markets remain competitive in future. Nonetheless, the fact that several airlines have announced an intention or expressed interest in commencing or expanding services suggests that the competitive constraints already restricting the conduct of the JSA parties are unlikely to abate going forward.

5.3 Market performance

In Determination A30202, the Commission evaluated market performance by focusing on factors such as market shares, market liberalisation, prices and quality of service (including trends in cabin configuration). It found that the JSA had not lessened competition in air passenger service markets and accepted that there had been strong price competition, especially in the Australia-Europe market, over the first period of authorisation.

Our evaluation of trends in market shares and market liberalisation is set out in our analysis of market structure contained in section 5.1. Our analysis of market performance focuses on trends in quality of service, costs, yields and profitability and is contained in sections 5.3.1, 5.3.2, 5.3.3, and 5.3.4, respectively. In a concluding section (5.3.5) we explain why, consistent

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The Australian, 2002, Gulf Stream Set For Sydney Daily, Steve Creedy, 13 December.