

AUST. COMPETITION &
CONSUMER COMMISSION
SYDNEY
- 9 DEC 2002

BLAKE DAWSON WALDRON

L A W Y E R S

Level 37
Grosvenor Place
225 George Street
Sydney NSW 2000

legal.info@bdw.com.au

Telephone (02) 9258 6000
Int + 61 2 9258 6000
Fax (02) 9258 6999
DX 355 Sydney

Locked Bag N6
PO Grosvenor Place
Sydney NSW 2000
Australia

Partner
Aldo Nicotra
Telephone (02) 9258 6108

Contact
Sophie Rigby
Telephone (02) 9258 5759

Our reference
AN.SYR.02-1305-1716

Your reference

FILE No:
DOC: D02/64740
MARS/PRISM:

BY HAND

Mr Tim Grimwade
General Manager, Adjudication
Australian Competition and Consumer Commission
470 Northbourne Avenue
DIXON ACT 2602

9 December 2002

Dear Mr Grimwade

Qantas Airways Limited and Air New Zealand Limited - Applications for Authorisation

Blake Dawson Waldron acts for Qantas Airways Limited (**Qantas**) and Freehills acts for Air New Zealand Limited (**Air NZ**).

Qantas and Air NZ (**the Parties**) apply for authorisation pursuant to sub-sections 88(1) and 88(9) of the *Trade Practices Act 1974* (**TPA**) of:

1.1 the acquisition by Qantas of ordinary shares comprising up to a 22.5% voting equity interest in Air NZ; and

1.2 collaborative arrangements between the Parties,

(together **the Transactions**).

We enclose:

- (a) a supporting submission to the ACCC without confidential appendices (**Submission**), including an independent report by Network Economics Consulting Group Pty Ltd (**the NECG Report**);
- 1.3 folder of agreements and documents which are appendices to the submission over which confidentiality is sought (**Confidential Folder**);
- 1.4 Forms A, B and F, the application forms prescribed by regulation for authorisation of exclusionary provisions, agreements affecting competition and mergers; and
- 1.5 a cheque for \$24,000.

SYDNEY
MELBOURNE
BRISBANE
PERTH
CANBERRA
LONDON
PORT MORESBY
JAKARTA
SHANGHAI

Liability limited by the Solicitors' Scheme, approved under the Professional Standards Act 1994 (NSW)

112082606

Please note that each of the applications deals with a matter relating to a joint venture between the Parties and that section 90(15) applies.

Confidentiality

We request pursuant to section 89(5) of the TPA that the ACCC refrain from disclosing any information in the Confidential Folder. The Submission, including the NECG Report, may be placed on the public register.

Freehills will provide a copy of confidential Appendix F to the NECG Report under cover of a separate letter. This sets out a possible "counterfactual" to the implementation of the Transactions, and is confidential to Air NZ.

Overseas regulators

An application for authorisation of the Transactions has been lodged with the New Zealand Commerce Commission today.

The Parties provide the Confidential Folder to the ACCC on the basis that:

- the ACCC may provide copies of the documents in it to the New Zealand Commerce Commission on a confidential basis; and
- the ACCC may provide copies of the documents in it to an overseas competition regulator on a confidential basis if and when the Parties advise that notice or application for immunity has been lodged with that regulator in respect of the Transactions.

Timeframe for determination

For the purposes of section 90(12) of the TPA Qantas and Air NZ agree to the ACCC taking a longer period for the determination of the application for authorisation of a merger under section 88(9) of the TPA, being the period ending on 5 July 2003.

Yours faithfully



Aldo Nicotra

[Front of Form]

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.

* (Strike out whichever is not applicable)

(PLEASE READ DIRECTIONS AND NOTICES ON BACK OF FORM)

1. (a) Name of Applicants

Qantas Airways Limited ABN 16 009 661 901 (**Qantas**)Air New Zealand Limited ABN 70 000 312 685 (**Air NZ**)*(See Direction 2 on the back of this Form)*

(b) Short description of business carried on by applicants

The provision of domestic and international air transportation services.

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

Qantas Airways Limited
c/-Aldo Nicotra
Partner
Blake Dawson Waldron
Level 37, Grosvenor Place
225 George Street
SYDNEY NSW 2000Air New Zealand Limited
c/- Michael Gray
Partner
Freehills
Level 32, MLC Centre
19-29 Martin Place
SYDNEY NSW 2000

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

A Strategic Alliance Agreement dated 25 November 2002 between the Applicants under which they will coordinate pricing, scheduling, marketing, sales and customer service activities for all Air NZ operated flights, all domestic New Zealand flights operated by Qantas, and Qantas operated international flights arriving in, departing from or transiting through New Zealand (**the JAO network**). Also, Qantas will have the right to codeshare on

all Air NZ flights, and Air NZ will have the right to codeshare on all Qantas flights in the JAO network and to codeshare on those other Qantas flights that reasonably connect to any flight in the JAO network.

The Strategic Alliance Agreement is attached as a confidential appendix to the supporting submission to this application.

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

Pursuant to the Strategic Alliance Agreement the applicants will from time to time enter into contracts and arrangements and arrive at understandings that 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.

(See Direction 4 on the back of this Form)

- (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 application is made

Not applicable

4. (a) Grounds for grant of authorisation

See supporting submission

- (b) Facts and contentions relied upon in support of those grounds

See supporting submission

(See Notice 1 on the back of this Form)

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 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

(See Direction 5 and Notice 2 on the back of this Form)

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
Air NZ

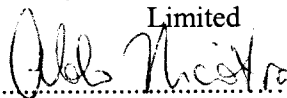
7. Name and address of person authorised by the applicant to provide additional information in relation to this application

Aldo Nicotra
Partner
Blake Dawson Waldron
Level 37, Grosvenor Place
225 George Street
SYDNEY NSW 2000
Phone: (02) 9258 6731
Fax: (02) 9258 6999

Michael Gray
Partner
Freehills
Level 32, MLC Centre
19 – 29 Martin Place
SYDNEY NSW 2000
Phone (02) 9225 5286
Fax: (02)9322 4000

Dated 9 DECEMBER 2002

Signed by/on behalf of Qantas Airways
Limited

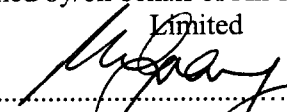

.....
(Signature)

**AUST. COMPETITION &
CONSUMER COMMISSION
SYDNEY**
- 9 DEC 2002

ALDO NICOTRA
(Full Name)

SOLICITOR
(Description)

Signed by/on behalf of Air New Zealand
Limited


.....
(Signature)

MICHAEL JOHN GRAY
(Full Name)

SOLICITOR
(Description)

[Front of Form]

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.

* (Strike out whichever is not applicable)

(PLEASE READ DIRECTIONS AND NOTICES ON BACK OF FORM)

1. (a) Name of Applicants

Qantas Airways Limited ABN 16 009 661 901 (**Qantas**)Air New Zealand Limited ABN 70 000 312 685 (**Air NZ**)

(See Direction 2 on the back of this Form)

(b) Short description of business carried on by applicants

The provision of domestic and international air transportation services.

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

Qantas Airways Limited
c/-Aldo Nicotra
Partner
Blake Dawson Waldron
Level 37, Grosvenor Place
225 George Street
SYDNEY NSW 2000Air New Zealand Limited
c/- Michael Gray
Partner
Freehills
Level 32, MLC Centre
19-29 Martin Place
SYDNEY NSW 2000

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

A Strategic Alliance Agreement dated 25 November 2002 between the Applicants under which they will coordinate pricing, scheduling, marketing, sales and customer service activities for all Air NZ operated flights, all domestic New Zealand flights operated by Qantas, and Qantas operated international flights arriving in, departing from or transiting

through New Zealand (**the JAO network**). Also, Qantas will have the right to codeshare on all Air NZ flights, and Air NZ will have the right to codeshare on all Qantas flights in the JAO network and to codeshare on those other Qantas flights that reasonably connect to any flight in the JAO network.

The Strategic Alliance Agreement is attached as a confidential appendix to the supporting submission to this application.

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

Not applicable

(See Direction 4 on the back of this Form)

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

Not applicable

4. (a) Grounds for grant of authorisation

See supporting submission

- (b) Facts and contentions relied upon in support of those grounds

See supporting submission

(See Notice 1 on the back of this Form)

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 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

(See Direction 5 and Notice 2 on the back of this Form)

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
Air NZ

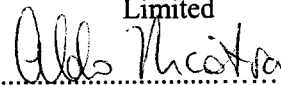
7. Name and address of person authorised by the applicant to provide additional information in relation to this application:

Aldo Nicotra
Partner
Blake Dawson Waldron
Level 37, Grosvenor Place
225 George Street
SYDNEY NSW 2000
Phone: (02) 9258 6731
Fax: (02) 9258 6999

Michael Gray
Partner
Freehills
Level 32, MLC Centre
19 – 29 Martin Place
SYDNEY NSW 2000
Phone (02) 9225 5286
Fax: (02)9322 4000

Dated 9 DECEMBER, 2002

Signed by/on behalf of Qantas Airways
Limited

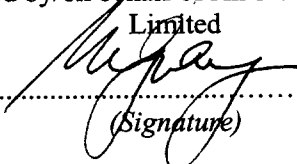


.....
(Signature)

ALDO NICOTRA
(Full Name)

SOLICITOR
(Description)

Signed by/on behalf of Air New Zealand
Limited



.....
(Signature)

MICHAEL JOHN GRAY
(Full Name)

SOLICITOR
(Description)

[Front of Form]

COMMONWEALTH OF AUSTRALIA

*Trade Practices Act 1974 ---- Sub-section 88(9)***MERGERS:
APPLICATION FOR AUTHORISATION**

To the Australian Competition and Consumer Commission:

Application is made under sub-section 88(9) of the *Trade Practices Act 1974* for an authorisation under that sub-section to acquire shares in the capital of the body corporate, or to acquire assets of the person (including a body corporate), named in item 2.

(PLEASE READ DIRECTIONS AND NOTICES ON BACK OF FORM)

1. (a) Name of applicant

Qantas Airways Limited ABN 16 009 661 901 (**Qantas**)
 - (b) Short description of business carried on by applicant

The provision of domestic and international air transportation services.
 - (c) Address in Australia for service of documents on the applicant

Qantas Airways Limited
c/-Aldo Nicotra
Partner
Blake Dawson Waldron
Level 37, Grosvenor Place
225 George Street
SYDNEY NSW 2000
 - (d) Name and address of any person for whose benefit the shares or assets will be held

Not applicable
2. (a) In the case of a body corporate whose shares or assets are to be acquired
 - (i) Name of the body corporate

Air New Zealand Limited ABN 70 000 312 685 (**Air NZ**)
 - (ii) Place of incorporation of the body corporate

New Zealand
 - (iii) Registered office of the body corporate

19th Floor
Quay Tower
29 Customs Street West
Auckland, New Zealand
 - (iv) Short description of the business carried on by the body corporate

The provision of domestic and international air transportation services.

- (v) Number of shares or description of assets to be acquired

Ordinary shares comprising up to a 22.5% voting equity interest in Air NZ.

- (b) In the case of a person (other than a body corporate) whose assets are to be acquired

- (i) Name and address of the person

Not applicable

- (ii) Short description of the business carried on by the person

Not applicable

- (iii) Description of assets to be acquired

Not applicable

3. Where a contract, arrangement, understanding or proposal for the acquisition has been made, brief description of the contract, arrangement, understanding or proposal and its date

Subscription Agreement between Air NZ and Qantas dated 25 November 2002.

Qantas will subscribe for redeemable convertible notes equivalent to 4.99% of the equity in Air NZ. On receipt of authorisation by the NZCC and ACCC and consent of Air NZ shareholders, the convertible notes will convert to ordinary shares and Qantas will subscribe for such number of Air NZ ordinary shares as would result in Qantas holding, in total, 15% of the equity of Air NZ. In addition, Qantas must, either then or at the end of a 3 year period, subscribe for such number of Air NZ equity securities as would result in Qantas holding up to 22.5% of the equity of Air NZ. Qantas will be entitled to maintain this level of shareholding pursuant to "top up" arrangements with Air NZ.

The Subscription Agreement is attached as a confidential appendix to the supporting submission to this application.

(See Direction 3 on the back of this Form)

4. (a) Grounds for grant of authorisation

See supporting submission

- (b) Facts and contentions relied upon in support of those grounds

See supporting submission

(See Notice on the back of this Form)

5. (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
Air NZ

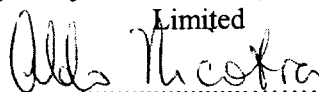
6. Name and address of person authorised by the applicant to provide additional information in relation to this application

Aldo Nicotra
Partner
Blake Dawson Waldron
Level 37, Grosvenor Place
225 George Street
SYDNEY NSW 2000
Phone: (02) 9258 6731
Fax: (02) 9258 6999

Dated 9 DECEMBER 2002

Signed by/on behalf of Qantas Airways

Limited



(Signature)

ALDO NICOTRA
(Full Name)

SOLICITOR
(Description)