Australian Competition and Consumer Commission

Pre-decision conference in relation to Applications for Authorisation A30226 and A30227 lodged by Qantas and British Airways

Grace Hotel, Sydney

9.30am, 1 November 2004

Record

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The conference commenced at 9:30 am on Monday 1 November 2004. The main points raised during the conference are outlined below. The notes are taken in summary form and are not verbatim.

A List of attendees is at **Attachment A**.

Introduction

Australian Competition and Consumer Commission – Commissioner Martin

- Welcome and introductory remarks
- Commission Martin advised that he had been appointed by the Chairman of the Australian Competition and Consumer Commission (ACCC) to represent the Commission
- Commissioner Martin introduced Commission staff attending the conference
- Commissioner Martin summarised the relevant provisions of the *Trade Practices Act 1974* (the Act), the authorisation process, the arrangements for which authorisation has been sought and the Commission's draft determination proposing to grant authorisation to the arrangements for a period of five years
- Commissioner Martin detailed the nature of the conference and the procedures that would be followed
- Commissioner Martin advised that the conference was requested by Virgin Atlantic and for this reason, Virgin Atlantic would be called first to speak. Commissioner Martin advised that thereafter other speakers would be given the opportunity to make a submission
- Commissioner Martin advised that questions to other parties must go through him and discretion would be exercised as to whether or not questions would be put. Parties may choose to answer or not to answer questions
- Commissioner Martin advised that staff would make a record of the conference and that all parties would receive a copy of the record and it would be placed on the public register, subject to any claims for confidentiality
- Commissioner Martin advised that he could not make a final decision today. He advised that he would have to report back to the Commission and it will be the whole Commission that makes the final determination in respect of this matter

Submissions

Virgin Atlantic - Barry Humphreys

- Dr Humphreys submitted that Virgin Atlantic substantially agrees with most of the analysis conducted by the ACCC and outlined in the draft determination, however, contends that the analysis does not support conclusion that the ACCC reached in respect of net benefit
- Dr Humphreys submitted that Virgin Atlantic is not seeking to persuade the ACCC not to approve the JSA, though it would be satisfied with that outcome, rather, it sees the need for the imposition of appropriate conditions on any authorisation

- Dr Humphreys submitted that the ACCC analysis reflected Virgin Atlantic's analysis in a number of respects
    - Two separate markets should be considered, that is, a business market and a leisure market, which the ACCC recognised
    - In relation to the acceptance of city pair markets, Virgin Atlantic accepts that, in the present circumstance, airport markets may not be appropriate
- Dr Humphreys noted that the ACCC accepted
    - the existence of anti-competitive detriment
    - barriers to entry including access to slots at London Heathrow
- Dr Humphreys said that Virgin Atlantic have had the intention of accessing the Australian market for a long period and that services will begin from London Heathrow via Hong Kong in December
    - Virgin Atlantic will have a relatively limited market presence as they are merely extending Hong Kong route
    - While Virgin Atlantic have bilateral rights to do this, under new European Union agreements, the decision is provisional and subject to review
    - Virgin Atlantic first entered into an arrangement with Malaysia Airlines many years ago whereby they sell blocks of seats on Malaysia flights and this was regarded as a 'foot in the door', with the intention to supplement or replace arrangement with own services (this was also a condition of approval from the Australian Government)
    - Virgin Atlantic changed its mind about entering the market largely because of the creation of the JSA and the effect that it had in terms of substantially increasing the risks associated with entry
    - Virgin Atlantic's views in this regard have changed because Virgin now has strong brand recognition in Australia, bilateral rights are unpredictable and when they came along it was thought prudent to take advantage of them
- Dr Humphreys submitted that, while business travel accounts for between 10 and 16 per cent of passengers travelling, this underestimates the significance to airlines of attracting those passengers
    - a more appropriate measure of the value of these passengers is by the revenue that they generate
    - these passengers are important to airlines because of the large proportion of total revenue that they generate and, if not for the business market on the Kangaroo Route, British Airways, Qantas and Virgin Atlantic would be unlikely to operate as markets would not be viable
- Dr Humphreys submitted that what happens in the business markets necessarily affects the leisure market

- Qantas and British Airways have 68 per cent of Australia originating business traffic on the Kangaroo Route
- Dr Humphreys noted the ACCC's draft determination at paragraph 10.72:

  > "The Commission considers that joint market shares at such levels raise competition concerns and would be expected, depending on the market involved, to potentially impact on price, service and product choice"

- Dr Humphreys submitted that this is highlighted by the recent introduction of beds in Qantas business class and Qantas' statements that in order to recoup investment in the product, it proposes to increase fares by 10 per cent: such a surcharge, in most markets, would not be tenable due to competitive constraints
- the approach adopted by Qantas and British Airways is a cost-plus approach and indicates an uncompetitive market
- Dr Humphreys also noted that the JSA resulting in Qantas delaying the introduction of flat beds and said that this indicates that the market is not competitive because product is normally so important in the business market. Dr Humphreys noted that Virgin Atlantic is now in its second product cycles in flat beds with the introduction of the 'Upper Class Suite'
- When Qantas recently bought slots at London Heathrow, a number of airlines attempted to buy them: Virgin Atlantic purchased four pairs and paid £20 million, Qantas also paid £20 million, but for just two pairs. Dr Humphreys submitted that they can only make such a purchase because they are in a position to operate on a cost plus basis

- Dr Humphreys noted the ACCC's conclusion that there is a fine balance between public benefit and anti-competitive detriment with benefits flowing to leisure passengers and detriment to business passengers. Dr Humphreys suggested a better approach would be to keep benefits and seek removal of detriments through attaching conditions to any authorisation
- Dr Humphreys submitted that Virgin Atlantic recognised that the ACCC cannot approve half of the JSA, however, it urged the ACCC to impose conditions, a practice used widely by other regulators and with many international precedents, such as the European Union imposing conditions in relation to a dominant carrier at one end of a route combining with a dominant carrier at the other end of a route (for example, Lufthansa and Austrian Airlines essentially had to find competitors before approval to align was given)
- Dr Humphreys submitted that such conditions were important to Virgin Atlantic because the parties have a history of engaging in anti-competitive behaviour
  - British Airways' engaged in a 'dirty tricks' campaign designed to eliminate Virgin Atlantic but which was subsequently found to be unacceptable behaviour and resulted in a public apology, payment of substantial compensation to Virgin Atlantic and executive changes at the top of British Airways

  - British Airways is currently under investigation by the UK Office of Fair Trading for engaging in anti-competitive behaviour
  - Qantas is also expected to react to Virgin Atlantic's entry with vigorous competition and despite stating in its submission to the ACCC that its future plans did not include frequency increases on the Kangaroo route it has announced it is introducing another seven services per week with a further seven per week to follow later - this timing is more than accidental.

- Dr Humphreys submitted that the existence of the JSA has already delayed Virgin Atlantic's entry into the market by a number of years and it still has significant reservations with its ability to enter and expand in the market dependent on fair competition.
- Dr Humphreys submitted that Virgin Atlantic does not want protection and is able and willing to compete with anybody in fair competition but on the Kangaroo Route, it is not dealing with fair competition especially in the business travellers market
  - there are barriers to entry on the route
  - there is likely to be anti-competitive behaviour in a number of areas including in respect of corporate discounts
- Dr Humphreys submitted that, in relation to the imposition of conditions with respect to the business market, this is a standard approach by competition authorities
  - British Airways has previously suggested this approach in Canada in relation to an Air Canada/Canadian merger not dissimilar to the current situation – a copy o the British Airways submission was supplied to the ACCC and it is surprising more emphasis was not placed on the document
- Dr Humphreys submitted that while the ACCC had accepted significant cost savings claimed as a result of JSA in its draft determination it was hard to comment on the claims as the data was confidential. It was not clear whether the ACCC had conducted an independent audit of the claims made by Qantas and British Airways. Dr Humphreys noted that the ACCC had rejected several of the claims made by Qantas and British Airways and it was not clear why, if some claims were rejected, credence was put in others
- Dr Humphreys submitted that the parties have not been honest with the ACCC in respect of their intentions in the market
  - Qantas suggested that it did not intend to increase frequency on the Kangaroo Route, however, since Virgin Atlantic announced its entry via Hong Kong, they have announced an increase in services by seven per week
  - British Airways stated no intention to sell stake in Qantas, however, this must have been on agenda for some time
- Commissioner Martin asked for more detail in respect of Virgin Atlantic's agreement with Malaysia Airlines

- Dr Humphreys said that it was a longstanding agreement whereby Virgin Atlantic purchases a 'hard block' of seats and it takes the risk in terms of seat sales and load factors. Dr Humphreys said that Virgin Atlantic used the arrangement as a way of gaining presence in the market and that the agreement was relatively small scale

- Commissioner Martin asked about the differences between Virgin Atlantic and Virgin Blue
  - Dr Humphreys said that Virgin Atlantic is 51 per cent owned by Sir Richard Branson and 49 per cent owned by Singapore Airlines, whereas Virgin Blue is 25 per cent owned by Branson, with the remainder publicly listed. Dr Humphreys said that the two airlines have completely separate management and control
  - Virgin Atlantic owns the 'Virgin' brand
  - The product offerings of the two airlines are also quite different, with Virgin Blue offering a low cost, one class service while Virgin Atlantic is a full service airline
- Commissioner Martin asked whether slots can have different intrinsic value and whether that could explain the price differences for different slots
  - Dr Humphreys said that peak slots are more valuable but that both the Qantas slots and a significant proportion of the Virgin Atlantic slots are considered to be peak slots
  - Dr Tamms said that the price that Qantas paid for its slots was a record

Virgin Atlantic - Vanessa Tamms

Dr Tamms spoke to a PowerPoint presentation. The presentation is at **Attachment B**. The speaking notes for the presentation are at **Attachment C**. The points below were made in addition to the points outlined in the presentation. Slide references below are to the slides at Attachment C.

- Slide 3
  - Dr Tamms submitted that coordination by Qantas and British Airways in every way (aside from each retaining their own corporate identity) is very significant and questioned whether a finding by the ACCC that it is a 'finely balanced' with an ultimate finding of small net benefit is enough
  - Benefits should be significant, justified and independently audited
  - While it is incumbent on the applicant to establish a case for authorisation, the ACCC seems to have taken the view that, as no-one has challenged benefits, they should be accepted: this is not a sufficient basis on which to authorise such anti-competitive conduct
- Slide 4
  - Dr Tamms submitted that to be able to go into a market and price on a cost-plus basis is very unusual, however, Qantas is able to do this. This does not occur in markets where there is effective competition. Where there is effective competition, competitors do not know whether consumers will pay a premium for an 'improved' product

until it is available in the market and there is a risk that consumers will vote with their feet and choose a competitor's product

- Dr Tamms said that outcomes in the business market affect both the leisure and business markets and that the ACCC recognised that business market outcomes have an impact on leisure market

- Dr Tamms submitted that the parties have constrained the supply of economy seats in the market and the ACCC has not put enough emphasis on this

- Slide 7

  - Dr Tamms submitted that despite only accounting for a small proportion of total passengers, business passengers account for a large proportion of revenue and those passengers are therefore very important to an airline's business and profitability is sensitive to business passenger loads

- Slide 8

  - Dr Tamms submitted that, when deciding whether to increase services, an airline will look at the contribution of revenue from different classes, then work out whether to expand capacity in a particular market or to add frequency

  - The more business passengers an airline has in a market, the more likely that airline is to expand in that market

- Slide 9

  - The importance of business passengers to airlines is this is why they invest so much to attract those passengers

  - Virgin Atlantic and Qantas have both invested heavily to improve business product offering

  - Comments from Qantas' press release indicate the large investment made in improving international business and first class and the introduction of the 'Sky Bed' and Qantas would not have undertaken such a massive investment if these passengers were not important

- Slide 10

  - Dr Tamms submitted that the ACCC should go to airlines to obtain revenue data to enable calculation of the market share of Qantas and British Airways in terms of value

  - This would be more accurate given the differentiation of products between cabins and within cabins through restrictions on fares

  - Dr Tamms submitted that the way rewards are paid under loyalty programs means that volume matters and access to marginal passengers becomes more and more important

  - Dr Tamms submitted that loyalty programs also create switching costs such as foregoing frequent flyer points when switching to another carrier

- Qantas and British Airways are far more likely to have a higher proportion of valuable high yielding passengers due to loyalty programs and strong domestic presence

- Slide 17

  - In relation to services from the United Kingdom to India, Dr Tamms noted that British Airways prices only dropped once Virgin Atlantic entered the market and that sale fares are generally introduced within 18 months of Virgin Atlantic's entry into a market

- Slide 19

  - Dr Tamms submitted that, with much less capacity on the Kangaroo Route, the parties have a much greater share of the business market when compared to services between London and the United States

- Slide 20

  - Dr Tamms submitted that, in 1999, the European Commission found that British Airways had abused its market power in relation to travel agency services and that the High Court recently confirmed this finding. Virgin Atlantic noted that British Airways has appealed the High Court's decision

- Ms Dadd asked about the impact of the JSA on the ability of Qantas and British Airways to attract passengers given that Qantas would have a strong domestic and international presence even without the JSA

  - Dr Tamms said that it is true that Qantas would have a significant market presence even without the JSA but that the JSA means that attracting marginal passengers through combined route network is easier and increases the impact of the JSA

  - Dr Tamms said that this would also be possible under the **one**world alliance without the JSA, but to a lesser extent

- Slide 22

  - Dr Tamms submitted that cost savings will only be passed on to consumers if there is effective competition

- Slide 25

  - Dr Tamms submitted that the relationship between Qantas and British Airways is not as stable as it once was

  - Dr Tamms questioned whether there will be cost savings over Singapore and Bangkok and suggested that Qantas may instead focus on operations though Hong Kong

- Slide 30

  - Dr Tamms submitted that one of the most important remedies in this situation is airport access and that this may be able to be addressed by making available slots for use by competitors

  - It is not enough to rely on legal action after the event in relation to anti-competitive conduct, rather it is preferable to avoid parties engaging in anti-competitive conduct before it occurs

- Dr Tamms submitted that re-authorisation should be applied for by the parties earlier (given that interim authorisation effectively extends the period of authorisation) or should be initially granted for a shorter period

Break for morning tea

Qantas - Brett Johnson and British Airways - Niamh McCarthy

- Mr Johnson stated that Virgin Atlantic had raised nothing new and had supplied misinformation, Qantas would formally respond to the submission as a whole and restrict its comments in the conference to the big issues.
- Mr Johnson submitted that it may be true that the JSA was the reason for Virgin Atlantic deferring entry but Virgin Atlantic's decision was made on commercial not competition grounds. The JSA has not prevented entry by other carriers.
- Mr Johnson submitted that Qantas would like some clarity in terms of 'what is the market' and that Virgin Atlantic's submission seems to assume that, the business class market is the relevant market rather than the time/convenience sensitive market
    - Dr Tamms said that Virgin Atlantic had used 'business' for ease and that any reference to business should be considered to be a reference to the time sensitive market
- Mr Johnson said that Virgin Atlantic's presentation made a good case for considering only one market given that business and leisure passengers each impact the other and given perfect complementarity of supply
- Ms McCarthy submitted that a number of European cases recognise time sensitive passengers and the existence of a separate market for such are more applicable to short haul markets
- Mr Johnson said that this is supported by the observation that many business passengers fly Emirates on the Kangaroo Route and that most of those flights involve two stops
- Mr Johnson submitted that Qantas does not believe that a business market share of 60 per cent constitutes a dominant market and that there is still a significant competitive constraint imposed by many other carriers
- Mr Johnson submitted that, in relation to the introduction by Qantas of business class beds and associated fare increases, the fare increase results in Qantas getting the same yield as British Airways on business class seats. Qantas is actually experiencing a reduced yield per square meter given the increased space taken up by the Sky beds and the reduced number of business class seats
- Mr Johnson submitted that Qantas did pay 20 million pounds for slots at Heathrow but they were valuable slots at peak hour and could be used at the same time in both the winter and summer seasons. One set of slots would be used immediately for new Kangaroo route services, including through Hong Kong., but the second would not be used for some time.
- Ms McCarthy submitted that it is difficult to get slots at London Heathrow but that the JSA does not significantly improve the parties' ability to gain access to slots

- Ms McCarthy submitted that a number of airlines have recently been able to gain access to slots such as Virgin Atlantic (which is currently not using three of the four slot pairs that it purchased and is leasing slots pairs to Air France)
- Emirates (at London Heathrow and Gatwick) and Gulf Air and many non-aligned carriers have also been successful in gaining slots at London Heathrow
- Ms McCarthy submitted that access to slots in London is not an entry barrier, and that no separate market exists for London Heathrow

- Mr Johnson submitted that Qantas pays a premium for slots at London Heathrow because it enables them to operate out of one terminal rather than split operations between London Heathrow and Gatwick
- Mr Johnson submitted that even if there were separate markets for business and leisure – the test in the Act is that benefits flowing from the alliance must outweigh detriments – this is not specific to individual markets and the ACCC must look at the overall net effect
    - Mr Johnson submitted that the test has been met without conditions and it is therefore inappropriate to impose conditions
    - In relation to the Lufthansa and Austrian Airlines situation, conditions were appropriate in that case because there were only two operators on the route, unlike the Kangaroo route
- Ms McCarthy submitted that the 'dirty tricks' referred to was history and totally irrelevant to this case
    - Ms McCarthy noted that Virgin Atlantic had not contended that British Airways is currently engaging in any 'dirty tricks'
    - Dr Humphreys submitted that it has been established that there is a history of anti-competitive behaviour
- Mr Johnson submitted that Qantas will vigorously compete in compliance with the law
- Mr Johnson submitted that, in relation to previous Qantas submissions that capacity would not increase, things have changed since the authorisation application was made, especially with rights beyond Hong Kong becoming available. These rights arose subsequent to the submission made to the ACCC and illustrate the volatile and dynamic nature of the aviation industry
- Ms McCarthy submitted that in February this year, British Airways told Qantas that its intention was not to sell its Qantas shareholding
    - Ms McCarthy submitted that the JSA commercial arrangement is not underpinned by equity stake and JSA relationship will continue to be alive and vibrant without the shareholding
- Mr Johnson submitted that, in relation to market definition, supply side substitutability must considered under Australian law and, given the impacts of the business and leisure passengers on each other, the ACCC must consider a single market

- Mr Johnson noted that Qantas and British Airways get a higher proportion of passengers who wish to travel the entire Kangaroo Route but they have difficulty picking up passengers at the mid points and accessing mid point markets
- Mr Johnson submitted that, in relation to Virgin Atlantic's submission that a 25 per cent reduction in fares over five years is not significant, it is not appropriate to compare Delhi to the Kangaroo Route in relation to fare movements in response to competition because Delhi was a duopoly market and, on the Kangaroo route, there is already a very effective competitive market with over 20 carriers operating on the route
- Ms McCarthy referred to a recent article in the Sunday Times, a copy of which is at **Attachment D**
- Mr Johnson noted comments from Virgin Atlantic that cost savings are only passed on where there is competition and submitted that cost savings will be passed on under the JSA because there is effective competition in the relevant markets
- Mr Johnson acknowledged that there had been some tension between Qantas and British Airways as a result of different growth strategies but these have now been resolved. The JSA will produce cost savings at Hong Kong similar to those experienced at Hong Kong and Bangkok.
- Mr Johnson submitted that equity is not a prerequisite for a good alliance relationship and that the Qantas board believes that alliance with British Airways is much deeper than an 18.5 per cent shareholding
    - British Airways did not tell Qantas of intended sale because they had legal advice that they should not due to the disclosure obligations of Qantas
- Ms McCarthy submitted that, without the JSA, British Airways would not parallel code share and behind and beyond code sharing would depend on traffic flows: conclusions cannot be drawn on whether code sharing would take place without the alliance on the basis of other code sharing arrangements
    - Code share benefits, without the alliance, would not necessarily arise
- In relation to Virgin Atlantic observations about Qantas' relationship with Singapore Airlines Mr Johnson submitted that Qantas will work with Singapore Airlines on costs, particularly in relation to fleet. He also noted that Singapore Airlines is an equity partner of Virgin Atlantic.
- Ms McCarthy submitted that at least 70 per cent of British Airways' executive club members, and 80% of members at the highest level, are members of other loyalty programs and this illustrates that most valuable passengers are not 'loyal' to a particular airline
- Ms McCarthy submitted that Virgin Atlantic has its own successful loyalty program and frequent flyer partners.
- Ms McCarthy noted that in terms of mutual recognition of frequent flyer programs, the JSA arrangement mirrors the arrangements that would be in place under Qantas and British Airways' **one**world alliance membership

Virgin Atlantic - Barry Humphreys

- Dr Humphreys submitted that, in the whole of Europe, only two carriers operate on the Kangaroo route (British Airways and Lauda Air) and that this illustrates that the JSA has had an impact on the operation of European based airlines on the route
- Dr Humphreys reiterated that time sensitive and non-time sensitive passengers are the relevant passengers groups
    - It is difficult to get data on such passengers so there is a tendency to use cabin class as a proxy
- Dr Humphreys submitted that, in relation to the comment that 60 per cent of a market does not constitute a dominant share, he is not aware of any competition regulator in the world that would share this view
    - Dr Humphreys submitted that a 60 per cent share is dominant particularly when the other 40 per cent is spread between many other carriers
- Dr Humphreys submitted that any yield increases by Qantas must translate into fare increases: an increase in yields would require an increase in fares
    - Dr Humphreys submitted that the introduction of beds requires an increase in space by all carriers and that Virgin Atlantic have also had to take seats out of business class but found it could not increase prices
- Dr Humphreys said that his understanding was that the ACCC said that it did not need to decide whether London Heathrow was a separate market because overwhelmingly most business passengers fly from/to London Heathrow and not Gatwick
- Dr Humphreys submitted that slots are not available for JSA-type operations and that Virgin Atlantic had searched for slots and had not been able to access them
    - Only on one occasion recently have slots become available and Virgin Atlantic bid vigorously for them – their rarity is evidenced by the level of the bidding.
    - Virgin Atlantic is not using some slots as there is a lag associated with gaining and being able to use slots because of training and operational requirements: this is not unusual and is the reason why Virgin Atlantic is able to loan them to other carriers
- Dr Humphreys submitted that, while people do hold multiple frequent flyer program memberships, the relevant question is which ones they use
    - Frequent flyer programs confer significant advantages on Qantas and British Airways
- In relation to the existence of separate markets for business and leisure passengers, Dr Humphreys submitted that it depends upon demand side factors
- Dr Humphreys submitted that British Airways had approached UK authorities in relation to a code share arrangement with Cathay between London and Hong Kong but have not undertaken filing because conditions would be imposed
    - This reinforces the approach taken by competition regulators in terms of imposing conditions to limit detrimental effects

- Dr Tamms submitted that while Qantas contends that 20 carriers compete on the Kangaroo route passengers only travel on a handful of carriers and Qantas/British Airways have 60 to 70 per cent share of business (time sensitive) passengers
    - Ms McCarthy said that CAA survey and ABS data do not tell anything about the time sensitivity of passengers and that only MiDT data will pick up passengers who are sensitive to time
    - Dr Humphreys submitted that survey data does look at purpose of travel and that is a good indication of time sensitivity, MiDT data, on the other hand, does not tell you anything about purpose of travel

Qantas - Brett Johnson

- Mr Johnson submitted that market share does not equal dominance, rather, it is barriers to entry and competitive constraint which is important (as recently argued in the Australian Competition Tribunal hearing in relation to the Qantas/Air New Zealand proposed alliance)
- Mr Johnson submitted that the argument that there are only two European carriers supports the submission that it is difficult for end point carriers to compete with sixth freedom carriers. Some of these carriers do not operate on pure commercial terms but nevertheless they are competitors and what is relevant is the significant competition on the route.
    - the JSA helps Qantas and British Airways compete with sixth freedom carriers
- Mr Johnson submitted that Qantas does not understand how, on a 24 hr one stop flight, you can have time sensitivity, rather passenger choice comes down to fare choice
- Ms McCarthy said that time sensitivity also encompasses frequency and scheduling, however in this instance, competitor flights are scheduled similarly
- Mr Johnson submitted that Qantas has increased fares for business back to the competitive fare level
- In relation to the consideration of markets, Mr Johnson submitted that both demand and supply side must both be considered under Australian law

Conclusion

ACCC - Commissioner Martin

- Commissioner Martin asked whether any other party present would like to make a submission

No other party wished to make a submission

- Commissioner Martin noted that a final confidential session of the conference would be held where Virgin Atlantic will provide information which was redacted in slides (see Attachments B and C)
- Commissioner Martin said that the ACCC will accept further written submissions until 13 November 2004 and that a meeting record will be circulated and placed on the ACCC's website and public register

Confidential session

- Virgin Atlantic presented two slides containing confidential information that was redacted (see slides 7 and 8 at Attachment C).

Confidential information deleted

The conference concluded at 1.30pm.

Attachment A

Organisation	Name	Position
South African Airways	Mr Thevan Krishna	Regional Manager
Virgin Atlantic	Barry Humphreys	
Virgin Atlantic	Vanessa Tamms	
Virgin Atlantic	Mackenzie Grant	Head of Asia Pacific
Virgin Atlantic	Luke Woodward	Gilbert + Tobin
Qantas	Brett Johnson	General Counsel
Qantas	Aldo Nicotra	Johnson Winter and Slattery
Qantas	Michelle Laidlaw	Johnson Winter and Slattery
British Airways	Niamh McCarthy	Lawyer
British Airways	Sharon Henrick	Mallesons Stephen Jaques
Department of Industry, Tourism and Resources	Max Whitby	Tourism Transport Team
	Vijaya Nagarajan	Observer only
Department of Transport and Regional Services	Richard Wood	Director, Transport Industry and International Policy
Department of Transport and Regional Services	Simon Pomery	Policy Officer

Attachment C

Qantas/ BA RJSA

Pre-determination Conference

1 November 2004

virgin atlantic

Agenda

- Is "finely balanced" sufficient?
- The importance of remedying detriments to competition , and in markets in which they occur
- Business market outcomes affect leisure market outcomes, due to nature of supply
- Value share more accurately measures market share, given differentiated products
- Evidence of market power
- The use of loyalty programmes by airlines in dominant positions
- Benefits?
- The changing nature of the relationship between Qantas and BA
- Who said ... ?
- Remedies

Is "finely balanced" sufficient?

- "The Commission considers that overall there is a *small* net benefit" (*Draft Determination*, 23 August)
- It is generally accepted that there needs to be clear and substantive public benefits to justify a price-fixing arrangement
- It is generally incumbent on the applicants (for authorisation) to bear the onus of establishing their case

- Particularly in light of findings:
  - "... Qantas publicly announcing that the cost of introducing its new business class sleeper berths would be met by a fare increase. The 10% price increase advised by Qantas is symptomatic of a market where prices are derived on a cost plus basis rather than a product of competition" (para 8.63)
  - "... it appears to the Commission that supply side growth has been driven by changes in the demand characteristics of high yielding passengers rather than of economy passengers" (para 9.44)
  - "Given the ... barriers to entry facing other airlines looking to expand into Heathrow, passenger access to this route would look to become increasingly difficult over the next five years" (para 9.43)
  - "... the Commission is of the view that it is likely ... under the JSA if authorised, that the Australia-UK routes would be significantly constrained in terms of the supply of economy capacity to the market" (para 9.43)

To remedy or not to remedy?

- The ACCC has found that there are separate markets for business and leisure travellers
- The ACCC has found that there is likely to be a substantial lessening of competition in business markets and that there may be some benefits in leisure markets
- (By definition) any benefits available in leisure markets will not be available to business passengers
- Surely a priori detriments to competition should be remedied?
- Aren't business passengers important?
- Nature of supply must be properly understood
- In the relevant markets, business market outcomes determine leisure market outcomes, as supply is "lumpy
- Hence very important to remedy detriment to competition in business markets

The importance of being business

- Business market outcomes determine leisure market outcomes, due to nature of supply
- "... it appears to the Commission that supply side growth has been driven by changes in the demand characteristics of high yielding passengers rather than of economy passengers" (para 9.44)

  BUT
- "... the United Kingdom business passenger market is the only market where the lessening of competition currently seems likely to be substantial" (page iii)

[redacted]

Economy

Premium

Upper

- Despite only accounting for (redacted)% of passengers, Upper Class provides (redacted)% of revenue
- As a result, profitability is very sensitive to Upper Class loads:
  - 1 additional Upper Class passenger on every flight would improve profit by approximately £(redacted)

[redacted]

Upper Class Net Revenue	(redacted)
Upper Passenger Direct Operating Costs	(redacted)
Upper Class Contribution	(redacted)
Premium Economy Class Net Revenue	(redacted)
Premium Passenger Direct Operating Costs	(redacted)
Premium Economy Class Contribution	(redacted)
Economy Class Net Revenue	(redacted)
Economy Passenger Direct Operating Costs	(redacted)
Economy Class Contribution	(redacted)
Inflight Sales	(redacted)
Incidentals	(redacted)
TSC	(redacted)
PSC	(redacted)
Total Passenger Contribution	(redacted)
Freight Contribution	(redacted)
Total Passenger and Freight Contribution	(redacted)
Rotation Fuel	(redacted)
Sector Direct Operating Costs	(redacted)
Flight Hour Costs	(redacted)
Reprotection and Subcharters	(redacted)
Total Sector Direct Operating Costs	(redacted)
Aircraft Standing Charges	(redacted)
Crew Costs	(redacted)
Total Fixed Operating Costs	(redacted)

Note: Total Fixed Operating Costs does not yet take account of overhead costs

- This is why airlines invest large sums to capture a greater share of the business market.
  - E.g "Qantas today unveiled its new $385 million International Business Class, featuring the state-of-the-art sleeper seat, Skybed and a range of other product and service enhancements.

    "We have recruited 1,200 dedicated First and Business Class Flight Attendants and introduced specialised training for them that focuses on more personalised service," (Mr Borghetti) said...

    The new International Business Class cabin, including Skybed, is being progressively introduced on all three class 747-400s from this month.

    These aircraft operate on routes between Australia and the United Kingdom via Bangkok and Singapore, the USA and Hong Kong" (*Qantas Press Release*, 25 September 2003)

The way the cake is cut matters

- Particularly given the importance of business class revenue to route entry/ capacity expansion decisions (and hence leisure market outcomes) it is important that market shares are measured as accurately as possible
- Value share will be a more accurate reflector of market share than passenger number share, as (given within each cabin products are differentiated) it will show which airline(s) attract(s) the largest proportion of higher-yielding passengers
- Qantas and BA are likely to attract a greater proportion of higher yield business passengers, due to
  - Greater flight frequency (and existence of "s-curve effect")
  - Nature of loyalty programmes

- Under loyalty programmes (corporate deals, FFPs, travel agency commissions) reward thresholds tend to be set relative to spend across an airline's entire route network (i.e. the rewards paid are (much) greater the greater the extent to which the participant directs all, or substantially all, of their business to the airline)
- This creates "switching costs": there are costs associated with using other airlines
- This will mean that participants will, *ceteris paribus*, direct their business to the largest carrier, as they will be able to meet the thresholds which entitle them to rewards more quickly
- If Frequent Flyer miles awarded for travel undertaken for business purposes, business travellers have an additional incentive to use the largest carriers: "take the wife to Paris for the weekend"
  - "Damien Horth, airline analyst at UBS ... said: "Qantas dominates the Australian corporate travel market, and BA dominates it in the UK. That is what will keep this alliance together..." (*Sunday Times*, 12 September)

- Value share has been used to determine market share in other markets
  - In *Re Queensland Independent Wholesalers Ltd* (1995) 132 ALR 225, the accepted measure of market share in the Australian wholesale grocery market (and the measure adopted by the court) was the proportion of branded packaged groceries sold in Australia, according to the statistics compiled by the trade journal *Retail World*. This was a market share based on value
- The ACCC in its *Merger Guidelines* states
  - "Market shares may be calculated with reference to capacity, sales volumes or sales values. Each conveys different information regarding the likely impact of a merger on competition. The Commission will place greatest weight on data which best reflects firms' future competitive significance. Capacity figures may be particularly useful as an indicator of market power in markets for undifferentiated products. However, sales figures provide a better indication of firms' actual position in the market, which may reflect their access to distribution networks or the value of brand loyalty. The dollar value of sales is a particularly useful indicator of competitive strength in markets characterised by product differentiation and brand loyalty" (5.100)

- Qantas must consider average yields as, despite slots being available at Gatwick, it recently paid £20 million for two pairs of daily slots at Heathrow (*SMH*, 23 January)

Evidence of market power

- Qantas increases prices in response to increase in costs
  Introduction of new business class product
  - "... Qantas publicly announcing that the cost of introducing its new business class sleeper berths would be met by a fare increase. The 10% price increase advised by Qantas is symptomatic of a market where prices are derived on a cost plus basis rather than a product of competition" (para 8.63)
  - Compare to Virgin Atlantic's introduction of Upper Class Suite

- The ACCC finds that prices in business markets have been rising, and are likely to continue to do so
  - "The Applicants have provided confidential information to the Commission on yields achieved in the first and business class cabins over the period of the JSA and claimed that the average price of travel in both cabins has declined substantially in recent years. From the Commission's perspective the information appears to show that fares in these categories were increasing steadily in both dollar and real terms prior to September 2001 but have stabilised in dollar terms and fallen slightly in real terms since then, presumably in response to reduced demand" (para 11.24)

- "On the material before it the Commission is not satisfied that fares payable by business travellers, especially in premium cabin classes, will stay at the current claimed low levels. Premium cabin fares have risen substantially previously during the term of the JSA. In the short term given the market power of the Applicants in the UK business traveller market … the reduction in business class seating capacity on Qantas flights following the introduction of flat beds and the stated intention of Qantas to increase fares to cover flat bed costs, fares for many business travellers are likely to increase" (para 11.30)

- The ACCC finds that output is constrained, at least in leisure markets
  - "… the Commission is of the view that it is likely … under the JSA, if authorised, that the Australia-UK routes would be significantly constrained in terms of the supply of economy capacity to the market. Given the … barriers to entry facing other airlines looking to expand into Heathrow, passenger access to this route would look to become increasingly difficult over the next five years" (para 9.43)

"The Applicants have claimed that a representative economy bench mark fare has fallen by 25% since the JSA was implemented" (para 11.25)

"The Commission does not consider that a public benefit of lower fares will arise from the JSA in the short to medium term" (para 11.32)

- The evidence and Commission findings above suggest that the 25% reduction in this fare (if this has occurred) would have been much larger absent the JSA
- Virgin Atlantic's experience is that, even where we are able to provide only limited capacity vis-à-vis incumbents, economy fares drop by approximately 25% within the first eighteen months or so

[redacted]

ECONOMY CLASS SEASONAL FARES — BASED ON LOW/ HIGH FARES AVAILABLE IN LOWEST BOOKING CLASS

CXR		1999	2000	2001	2002	2003	2004
BA	LOW	541	500	487	495	513	513
	HIGH	800	824	760	775	807	807
fare class		V-AP	V-APGB	V-APGB	V-APGB	V-APGB	V-APGB
AI	LOW	469	469	469	469	406	406
	HIGH	515	515	515	515	524	524
fare class		Y-AP	Y-AP	Y-AP	Y-AP	L-E6LON	L-E6LON
VS			500	487	495	513	513
			824	770	775	807	807
fare class			Q-AN	Q-AN	Q-GB	Q-GB	Q-GB

ECONOMY SALE FARES ACTIVITY — BASED ON LOWEST FARE AVAILABLE DURING YEAR

CXR	1999	2000	2001	2002	2003	2004
BA			390			404
sale period			18JUL01-13AUG01			02AUG03-05AUG
travel period			01AUG01-30SEP01			01SEP03-30NOV
fare class			VXSPEC			NXFAB
VS		463	390	395	430	
sale period		29JUN00-31JUL00	19JUL01-13AUG01	30JUL02-30AUG02	28JAN03-28FEB03	
travel period		05JUL00-31JUL00	01AUG01-30SEP01	07AUG02-30AUG02	26FEB03-30MAR03	
fare class		QFDELHI	XLXMEGA	NHXMEG	NLMEG	

[redacted]

– Even using passenger share data, Qantas and BA seem to have much higher shares of both business and leisure passenger numbers on the London – Sydney route than would be expected based on their relative capacity offerings, compared to markets in which there is effective competition, such as London – US markets

Combined Qantas/ BA Capacity Share London - Sydney*

	1999	2000	2001	2002
Qantas/ BA Capacity Share	32%	27%	29%	29%

Combined Qantas/ BA Passenger Share London - Sydney**

	1999	2000	2001	2002
Business	67%	63%	75%	65%
Leisure	47%	45%	52%	46%
Total	51%	48%	56%	49%

* Includes capacity offerings from QF,BA,CX,SQ,TG,MH,EK

** Source : *CAA Passenger Survey*. Includes all airlines

Combined BA/ American Capacity Share London - USA*

	1999	2000	2001	2002
BA/American Capacity Share	51%	51%	46%	47%

Combined BA/ American Passenger Share London - USA

	1999	2000	2001	2002
Business	54%	56%	55%	58%
Leisure	52%	49%	45%	49%
Total	52%	50%	47%	50%

* All London-USA data for routes on which Virgin Atlantic operates
Source: IATA data

- Loyalty programmes
  - 14 July 1999: the European Commission finds that BA has abused its dominant position in the UK market for air travel agency services.
  - BA is fined 6.8 million Euros and ordered to bring the infringements to an end.
  - "Damien Horth, airline analyst at UBS. . . said: "Qantas dominates the Australian corporate travel market, and BA dominates it in the UK. That is what will keep this alliance together. . ." (*Sunday Times*, 12 September)

- "(Air Canada)'s near-monopoly on domestic routes affords it an opportunity to leverage that position to reduce competition in international air travel markets through the use of incentive programmes. Although British Airways believes that, as a generality, it is entirely proper for an airline to offer incentives that are linked to the amount of travel which is booked on that airline, it does not believe that this extends to a situation where an incentive is offered to a customer on a route or bundle of routes on which the airline is in a monopoly position conditional upon the customer's also acquiring a significant part of its requirements in another, competitive market. Air Canada has instituted programs which offer discounts on domestic travel within Canada in exchange for a higher share of international business. As a result, (Air Canada)'s near monopoly in the domestic Canadian market is being leveraged against international competitors to permit Air Canada to secure a further share of the international market" (British Airways, *Competition in the Canadian Airline Industry: Bill C-26*, Summer 2000)

Benefits?

- Cost savings and efficiencies
  - "In Determination A30202 the Commission stated that it would be surprising if two substantial businesses such as Qantas and BA were not able to achieve substantial cost savings through a joint rationalisation of aircraft operations and support services. No material presented to the Commission provides a basis for the Commission to resile from that position" (para 11.13)

    Is this a sufficient finding?
  - "The Commission has previously stated in relation to cost savings benefits that when such benefits are not passed on to consumers those benefits are likely to be accorded a lower weight by the Commission ...

    The Commission is satisfied that, with the exception of the market for business travellers between the UK and Australia, all other international markets involving the USA are subject to competition sufficient for there to be pressure for savings to be passed on to consumers" (para 11.15-6)

- Product and service benefits
  - "In A30202 the Commission accepted that the JSA was an important factor in the development and expansion of integrated services. The Commission acknowledges that there are still benefits to consumers from the integrated services provided by the Applicants but also notes that in recent times there has been a contraction in JSA routes ... Under these circumstances it would be expected that the benefits to arise from schedule options arising from the JSA in the medium term would be less than those recognised by the Commission in previous determinations" (para 11.80)
  - BA withdrew from Perth, Brisbane soon after JSA was authorised in 2000
  - Qantas now able to offer services to London via Hong Kong
  - "Mr Robert Gurney, Head of Sales and Distribution in Qantas, recently described the aim of yield management as:

    '... to maximise the airline's revenue in respect of each flight by selling the maximum number of seats to passengers, each of whom is paying the maximum amount they are prepared to pay for the seat.'

In accepting arguments of benefit from additional discount fares the Commission would note that such an outcome is likely to be dependent on the levels of competition in the market concerned" (para 11.87)

- "Overall the Commission accepts that in strongly contested markets there is likely to be a public benefit from integrated yield management systems" (para 11.89)
- Data on Virgin Atlantic's entry to Delhi route demonstrates that lower fares are only offered at all when there is effective competition

1800-DIVORCE

- December 2003: Qantas adds flights to Hong Kong from Perth Brisbane and Melbourne
- January 2004: Qantas pays £20 million for two pairs of daily slots at Heathrow (*SMH*, 23 January)
  - "[Qantas] had bought the slots because "we wanted to be masters of our own destiny. We did not tell anyone. This enables us to add capacity to Heathrow", said Mr Dixon" (*FT*, 14 September)
- April 2004: Rights to fly to London via Hong Kong negotiated
  - "… Geoff Dixon said the new arrangements would allow Qantas to look at developing Hong Kong as a transit and stop-over point as well as a destination in its own right. He said the additional capacity meant Qantas could look at developing new services to London via Hong Kong, as well as additional services between Australia and Hong Kong" (*Qantas Press Release*, 16 April)
  - ""There are some tensions coming into the relationship with BA over Qantas's growth," said Mr Dixon. "We can fly to London over Mumbai and Hong Kong and that makes us more of a competitor to BA"" (*FT*, 14 September)

- June 2004: Qantas announces plans to establish base in London for 400 of its international flight attendants
  - "… it was expected that existing Australian-based flight attendants would fill the majority of the London jobs"
  - "… the establishment of the London base would save Qantas $18 million annually through rostering efficiencies and reduced accommodation and allowance costs" (*Qantas Press Release*, 22 June)
- September 2004: BA sells stake, to Qantas's surprise
  - "[Qantas] was taken by surprise by BA's move last week to sell the stake through an underwritten offer managed by Citigroup … Qantas itself had also hoped to buy back the 18.25 per cent stake held by BA in order to control the process of its eventual distribution to investors, Mr Dixon said" (*FT*, 14 September)
  - "… the timing of last week's announcement came as something of a surprise. Geoff Dixon … and chief financial officer Peter Gregg were on an investors' roadshow in London when informed of the decision, hours before BA announced it to the market" (*Sunday Times*, 12 September)

The other woman

- "The (Qantas) group has growing links with Singapore, where Qantas is the second-largest operator at Singapore's Changi airport, its key hub outside Australia

  Qantas is a partner in (start-up low cost carrier) Jetstar Asia with Temasek Holdings, the Singapore state investment agency that holds the majority stake in Singapore Airlines ...

  Temasek was strongly rumoured to be among the interested investors who picked up shares in Qantas last week, and Mr Dixon said "they are a major international investment company and we would welcome them on our share register".

  There could also be ways for Qantas and Singapore Airlines itself to co-operate, said Mr Dixon

  Qantas was considering forming a partnership with SIA to support the introduction of the Airbus A380 superjumbo from 2006 in areas such as maintenance and spare parts inventories" (*FT*, 14 September)
- Benefits via cost-savings with BA at Singapore and Bangkok?

Who said...?

- "Aviation policy cannot be driven by consumer interest alone"
- "We have also asked that the government take care as it considers requests for ever greater access to the Australian market by foreign competitors"
- "We did an internal study a few years ago about the impact of the different parties being in Government on Qantas's fortunes, but concluded that it made no difference: as long as we go talk to the "inner circle" every now and then and keep our lounge at Canberra Airport in good order, we get whatever we want"
- "Sue the bastards!"

Remedies

- Remedies have been applied in numerous decisions made by other competition authorities in mergers/ "alliance" cases
  - "... the (US) DOT's (anti-trust immunity) granted to Delta and Air France did not provide immunity to pricing, inventory or yield management coordination, or pooling of revenues, with respect to unrestricted coach-class fares or any business or first class fares for local U.S. point-of-sale passengers flying nonstop between Atlanta/ Cincinnati and Paris, or the provision by one party to the other of more information concerning current or prospective fares or seat availability for such passengers than it makes available to airlines and travel agents generally" (US Department of Transportation, *Competition Policy and International Airline Alliances*)
  - The European Commission made its approval of the Austrian Airlines / Lufthansa "cooperation agreement", for example, conditional on Austrian Airlines and Lufthansa making commitments pertaining to slots, frequencies, air fares, blocked space agreements, interlining, FFPs, etc.

    In addition, the European Commission only gave its approval once competitors actually entered some of the markets in which the cooperation agreement raised the greatest competition concerns (Vienna-Frankfurt and Vienna-Stuttgart), and once it was satisfied that competitors would enter some of the other affected markets

- Airport access: Qantas and BA must make available a sufficient number of slots at Heathrow at competitive timings
- Corporate Deals: Qantas and BA must not be allowed to tie discounts on travel between Australia and London to discounts on travel on other routes (for example, Qantas must not be allowed to make the offering of discounts on e.g. travel within Australia dependent on also obtaining corporations' business on Australia-London routes)
- FFPs: Frequent Flyer miles awarded by Qantas and BA for travel between Australia and London must not be added by Qantas and BA to miles awarded for travel on other routes (for the purposes of determining rewards), or Qantas and BA must grant access to their FFPs to any competitor seeking such access, on terms no less favourable than those applicable to any other participant, including Qantas and BA
- Travel agency commissions: Qantas and BA must not be allowed to tie commissions on travel between Australia and London to commissions on travel on other routes
- Computer Reservation Systems: Qantas and BA must not be allowed to bias CRS screen displays, including by "screen padding" (displaying their connecting services more than once)

- Interlining: Qantas and BA must make available to competitor airlines interline fares at their hub airports at rates no less favourable than those they charge each other
- Virgin Atlantic's experience in the Travel Agents case is that it takes 11+ years to get a final decision (without seeking damages) where an abuse of a dominant position occurs
- Authorisation period: Qantas and BA must be required to apply for re-authorisation well in advance of the JSA's expiry date, given ACCC's history of granting interim authorisation, or period for which re-authorisation is granted must be shortened

- When Air Canada sought to acquire Canadian Airlines, BA stated
  - "British Airways' (London-Canada) market share is expected to decline rapidly due to a number of factors, such as: the removal of feed traffic previously supplied by Canadian Airlines; the inability of British Airways to participate in the frequent flyer program of the combined entity and the limited availability of slots.

    …Legislation to ensure that Air Canada's near monopoly does not extract a heavy price to consumers is essential…

    We believe that the correct approach to ensuring competition within Canadian markets consists of two main components: legislation that would ensure that competing carriers are able to gain access to the services and facilities controlled by Air Canada that they need to compete with the merged entity; and, legislation to prevent Air Canada from engaging in anti-competitive acts" (British Airways, *Competition in the Canadian Airline Industry: Bill C-26* Summer 2000)

- BA attached draft language for regulatory provisions in an Appendix
  - "Draft regulations to be promulgated pursuant to Section 13 of Bill C-26 to Define Anti-competitive Conduct in Air Transportation Markets

    i) alters its network or other infrastructure facilities for the purpose of or with the effect of disciplining or eliminating a competitor or otherwise substantially lessening competition in a market

    ii) offers a discount, commission or other concession to a person or persons in respect of, or in connection with, domestic or international travel on the condition that such person or persons commit to purchase, acquire or book air transportation services for either domestic or international travel primarily from that carrier or based on an increased share of business from that carrier

    iii) uses a frequent flyer program, loyalty program or any non-price incentive for the purpose of or with the effect of disciplining or eliminating a competitor or otherwise substantially lessening competition in a market"

- "Draft regulation to be promulgated pursuant to Section 13 of Bill C-26 to Define Essential Services and Facilities in Air Transportation Markets

  i) For the purposes of section 79 and in respect of air transportation markets, an essential "service" or "facility", without restricting the generality of these terms, includes: frequent flyer programs, interline services, maintenance services, baggage handling, loading and other ground services"

Attachment D

September 26, 2004

The Sunday Times

Tie me ticket price down, sport
By Mark Hodson
More airlines flying to Oz should mean lower fares

If you plan to fly to Australia this winter but feel confused by the myriad airlines and routes, brace yourself, because the choice is about to increase. Next month, Royal Brunei will become the latest airline to hop on the so-called kangaroo route between London and Sydney, with Virgin Atlantic following on December 5. Richard Branson says that his daily flights from Heathrow via Hong Kong will give passengers "much-needed competition and choice".

On November 3, Qantas will start its own flights between London and Sydney via Hong Kong, and may decide to take on British Airways by routing through Mumbai. But will this increased activity filter down into cheaper fares? Does Branson really intend to start a price war, as some commentators suggest, or is he merely jumping on a lucrative bandwagon? The early signs are not encouraging for travellers.

Last week, if you had booked a return flight for travel in January from London to Sydney through Trailfinders, you would have paid £809 with Virgin. Coincidentally, this was the same fare quoted by Air New Zealand, Malaysia Airlines and Emirates. BA and Qantas were £3 cheaper, with Singapore Airlines at £792 and Royal Brunei at £829. Only Cathay Pacific was significantly more expensive, at £860.

But read the small print and Virgin's offer does not look so tempting. If you plan to stop over in Hong Kong, Branson will charge you an additional £120. All the other airlines offer free stops: Cathay in Hong Kong, BA and Qantas in Singapore or Bangkok (or both), Emirates in Dubai, Royal Brunei in Brunei and Singapore Airlines in Singapore.

Malaysia Airlines goes one better. It offers a free stopover in Kuala Lumpur and throws in a free return flight to anywhere in mainland Malaysia, or to the islands of Penang and Langkawi. And if you want to fly the other way around the world, Air New Zealand gives you free stops in Auckland and Los Angeles (you pay only the US departure tax, about £15).

Another important factor when flying down under is cabin comfort. Virgin Atlantic is justifiably proud of its individual Upper Class suites, which have seats that flip over to become full-length beds — very nice if you have £3,359 to spare. Back in economy, however, Virgin's legroom is much less generous, with a seat pitch — the distance between the back of your seat and the back of the seat in front — of just 31in.

For more legroom, it is worth considering less obvious carriers such as Malaysia and the South Korean-based Asiana, both of which offer 34in. Air New Zealand also has 34in, while Cathay Pacific, Singapore, Emirates and Royal Brunei offer 32in. BA and Qantas guarantee 31in, but say many passengers get more.

So far, travel agents report that Virgin's flights are not selling particularly well. This could be seen as an opportunity: last week, Trailfinders said Virgin was the only airline with seats to Sydney during the busy Christmas period, including the key departure dates of December 20, 22 and 23.

If you don't intend to fly over Christmas or New Year, it might be worth waiting a few weeks before booking. Last year, when bookings needed a boost, most of the big carriers brought their fares down to about £700. This year, a similar pattern of slow sales is emerging, suggesting that another price drop could be imminent.

It is also worth keeping an eye on special fares. Malaysia currently has a fare of £699, including the free side trip, which must be booked by Thursday. But not even that beats last week's best deal — £632, with Asiana. The airline only flies twice weekly to Sydney, but it offers a 34in seat pitch and a free stopover in Seoul — in both directions, if you wish.

Consolidators worth trying include Austravel (0870 166 2100, www.austravel.com), Ebookers (0870 010 7000, www.ebookers.com) and Trailfinders (020 7938 3939, www.trailfinders.com). All fares include taxes and are valid between January and March.

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