IATA PASSENGER TARIFF COORDINATION AND INTERLINING

RESPONSE BY
THE INTERNATIONAL AIR TRANSPORT ASSOCIATION
TO ACCC DISCUSSION PAPER A90855/3
TABLE OF CONTENTS

SECTION 1 - EXECUTIVE SUMMARY ..................................................................................................................6

A. Key points .........................................................................................................................................................6
B. Erroneous assumptions .................................................................................................................................8
C. The risks of revoking the Authorisation ....................................................................................................10

SECTION 2 – IATA’S RESPONSE TO THE SPECIFIC QUESTIONS RAISED IN THE DISCUSSION PAPER .................................................................................................................................12

1. Guiding principles ............................................................................................................................................12
2. Specific responses and comments ................................................................................................................13
   Issue 1. - The counterfactual ..........................................................................................................................13
   Issue 2. - Information sharing .......................................................................................................................14
   Issue 3. - Impact on market fares ..................................................................................................................14
   Issue 4. - Seasonality periods .......................................................................................................................15
   Issue 5. - Fare conditions ...............................................................................................................................15
   Issue 6. - Air services agreements ..............................................................................................................16
   Issue 7. - International Civil Aviation Organisation (ICAO) ........................................................................17
   Issue 8. - Accessing offline destinations .....................................................................................................17
   Issue 9. - Travel flexibility .............................................................................................................................18
   Issue 10. - Incidence of sale of IATA interline fares ....................................................................................18
   Issue 11. - Utilisation of flexibility of IATA fares .......................................................................................19
   Issue 12. - Access to through fares .............................................................................................................19
   Issue 13. - Access to connecting services ..................................................................................................20
   Issue 14. - Flexibility for time-sensitive passengers ..................................................................................20
   Issue 15. - Baggage connectivity ..................................................................................................................21
   Issue 16. - Lower transaction costs ............................................................................................................21
   Issue 17. - Opportunity for smaller airlines to compete ............................................................................22
   Issue 18. - Expanded route networks .........................................................................................................22
   Issue 19. - Universality .................................................................................................................................23
   Issue 20. - Efficient use of assets ................................................................................................................23
   Issue 21. - Natural cap on prices ................................................................................................................24
   Issue 22. - IATA fares as a base for airline fare structures .........................................................................25
   Issue 23. - Tourism ......................................................................................................................................25
   Issue 24. - Conditional authorisation .........................................................................................................26

SECTION 3 - ANNOTATED VERSION OF ACCC DISCUSSION PAPER A90855/3 .................................................................................................................................28

SECTION 4 – IATA’S RESPONSE TO THE ACCC’S DISCUSSION OF MARKET DEFINITION ISSUES .................................................................................................................................171

1. ACCC Discussion Paper .............................................................................................................................171
2. Legal framework for market definition .......................................................................................................171
   Purpose of identifying relevant markets ........................................................................................................171
   Market - the term defined .............................................................................................................................172
   Identifying markets - the evaluative process ...............................................................................................173
   Products (goods or services) .........................................................................................................................175
   Functional considerations ...........................................................................................................................177
   Geographic considerations ...........................................................................................................................178
   Considerations of time .................................................................................................................................183
3. The ACCC Discussion Paper - IATA’s specific comments ........................................................................184
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>The 4,000 kilometre issue</td>
<td>186</td>
</tr>
<tr>
<td>SECTION 5</td>
<td>IATA'S RESPONSE TO THE ACCC'S DISCUSSION OF AIRLINE PRICING MECHANISMS</td>
<td>190</td>
</tr>
<tr>
<td>1</td>
<td>Introduction</td>
<td>190</td>
</tr>
<tr>
<td>2</td>
<td>Pricing and revenue management</td>
<td>190</td>
</tr>
<tr>
<td>3</td>
<td>The pricing cycle - transparency and long term planning</td>
<td>193</td>
</tr>
<tr>
<td>SECTION 6</td>
<td>IATA'S RESPONSE TO THE ACCC'S DISCUSSION OF INFORMATION EXCHANGE ISSUES</td>
<td>196</td>
</tr>
<tr>
<td>1</td>
<td>Introduction</td>
<td>196</td>
</tr>
<tr>
<td>2</td>
<td>Information sharing issues</td>
<td>196</td>
</tr>
<tr>
<td>SECTION 7</td>
<td>IATA'S RESPONSE TO THE ACCC'S FLAWED 'LONGITUDINAL STUDY'</td>
<td>199</td>
</tr>
<tr>
<td>1</td>
<td>Introduction</td>
<td>199</td>
</tr>
<tr>
<td>2</td>
<td>IATA serious concerns about the data</td>
<td>199</td>
</tr>
<tr>
<td>3</td>
<td>ACCC use of the Agents Support Manual data</td>
<td>201</td>
</tr>
<tr>
<td>4</td>
<td>The ACCC hypothesis - general comments</td>
<td>201</td>
</tr>
<tr>
<td>5</td>
<td>Price trends and changes in service levels</td>
<td>202</td>
</tr>
<tr>
<td>6</td>
<td>Sydney - London route</td>
<td>203</td>
</tr>
<tr>
<td>7</td>
<td>Sydney-Los Angeles-Sydney route</td>
<td>205</td>
</tr>
<tr>
<td>8</td>
<td>Real prices v nominal prices</td>
<td>206</td>
</tr>
<tr>
<td>9</td>
<td>Economy fares data</td>
<td>208</td>
</tr>
<tr>
<td>10</td>
<td>ACCC's choice of routes - are they representative?</td>
<td>209</td>
</tr>
<tr>
<td>11</td>
<td>Granger causality</td>
<td>210</td>
</tr>
<tr>
<td>SECTION 8</td>
<td>IATA'S RESPONSE TO THE ACCC'S DISCUSSION OF THE INCIDENCE OF INTERLINING</td>
<td>215</td>
</tr>
<tr>
<td>1</td>
<td>Background</td>
<td>215</td>
</tr>
<tr>
<td>2</td>
<td>Where people fly</td>
<td>215</td>
</tr>
<tr>
<td>3</td>
<td>Statements by airlines and others</td>
<td>217</td>
</tr>
<tr>
<td>4</td>
<td>International data</td>
<td>218</td>
</tr>
<tr>
<td>5</td>
<td>IATA data - tickets issued in Australia</td>
<td>218</td>
</tr>
<tr>
<td>6</td>
<td>Implications from data</td>
<td>220</td>
</tr>
<tr>
<td>7</td>
<td>Conclusion</td>
<td>222</td>
</tr>
<tr>
<td>SECTION 9 - APPENDIX</td>
<td>224</td>
<td></td>
</tr>
</tbody>
</table>

Appendix 1 – Example stopover itineraries permitted on the IATA fare
LIST OF TABLES

Table 4A - Sydney - London route - return economy fare choices available..................................................181
Table 4B - 'Low cost' airlines - aircraft and routes..........................................................................................188
Table 7A - Simple Granger causality tests, Australia – London .................................................................212
Table 7B - Simple Granger causality tests, Australia – Los Angeles..............................................................212
Table 8A - Countries accessed from Australia through selected transit points.............................................216
Table 8B - Airline statements on interlineable tickets ..................................................................................217
Table 8C - IATA fares - international perspective..........................................................................................218
Table 8D - Interlineable tickets sold in Australia – IATA normal fares - first data set ...............................219
Table 8E - Interlineable tickets sold in Australia – IATA normal fares - second data set..........................219
Table 8F - Likely range of outbound passengers per annum from Australia travelling on IATA interlineable normal fare tickets .................................................................................................................220
Table 8G - Likely range of outbound passengers per annum from Australia travelling on IATA interlineable normal fare tickets compared with total airline passengers inbound and outbound ......................................................................................................................221
Table 8H - Likely range of inbound and outbound passengers per annum to/from Australia travelling on IATA interlineable normal fare tickets ................................................................................................................222

LIST OF FIGURES

Figure 1 - First class return fares Sydney-London-Sydney (ACCC Figure 9.1)..............................................203
Figure 2 - Business class return fares Sydney-London-Sydney (ACCC Figure 9.2).......................................204
Figure 3 - First class return fares Sydney-Los Angeles-Sydney .................................................................205
Figure 4 - Business class return fares Sydney-Los Angeles-Sydney (ACCC Figure 9.5).............................206
Figure 5 - First class return fares Sydney-London-Sydney Real and nominal.............................................207
Figure 6 - Business class return fares Sydney-London-Sydney Real and nominal.....................................207
Figure 7 - First class return fares Sydney-Los Angeles-Sydney Real and nominal.....................................207
Figure 8 - Business class return fares Sydney-Los Angeles-Sydney Real and nominal.........................208
Figure 9 - Economy class return fares Sydney-London, four months before departure on 30 June (ACCC Figure 9.3) .................................................................................................................................209
Figure 10 - Economy class return fares Sydney-Los Angeles, Superpac four months before departure on 30 June (ACCC Figure 9.6)..................................................................................................................209
SECTION 1
EXECUTIVE SUMMARY

A. Key points

As the ACCC reviews IATA's detailed responses to the ACCC Discussion Paper, it should keep the following key points in mind:

1. The IATA tariff coordination system has been authorised since the Trade Practices Act came into effect in 1975. The current authorisation remains appropriate and relevant and does not need to be replaced, but nevertheless IATA agreed to the ACCC’s request that a review be undertaken. IATA has cooperated fully in that review;

2. When the Trade Practices Commission considered the matter in 1984, leading to the 1985 authorisation, the Commission decided that an authorisation should be granted on the basis that the public benefits inherent in the system outweighed what was then more significant anti-competitive aspects than are now present in the system. As the successor to the Commission the ACCC should give full faith and credit to that decision given that there has subsequently been no material change in circumstances other than that the market is vastly more competitive;

3. The international aviation market is extremely dynamic by any measure. Since 1985 competition for international air travel, both inbound and outbound, has intensified. International air travel to and from Australia has increased dramatically - more people are travelling to more places with more choice than ever before;

4. As governments have liberalised their international air transport policies IATA’s members have also liberalised the rules that govern the IATA Tariff Coordinating Conferences, originally introduced in response to government requirements;

5. IATA multilateral interlining is a joint venture product which remains of significant public benefit. Since 1985, there has been an expansion in the range of online routes, code sharing and alliances, as utilisation of international air travel has increased. There were 19.7 million passenger journeys to and from Australia last year as compared with 8.7 million in 1985. There is no evidence that there has been any reduction in the number of passengers who now travel utilising IATA fares, in whole or in part;

6. The benefits of interlining are not to be assessed simply by reference to the number of passengers, inbound and outbound, who either buy a ticket utilising an IATA fare or utilise the flexibility that IATA interlining provides. IATA interlining has a qualitative aspect, including flexibility, not assessable by simple arithmetic. But even with a simple arithmetic approach it is clear that a very significant number of travellers utilise IATA tickets each year directly (even when other choices are available to them) and an even larger number use the IATA fare structure indirectly;

---

1 BTRE International Scheduled Traffic to/from Australia - Uplift/discharge and Transit 1983-2004
7. As a joint venture product, IATA multilateral interlining depends upon universally established fares, rules and standards on which airlines worldwide can rely. IATA Traffic Conferences provide these, with some of the most important being provided by the IATA Tariff Coordinating Conferences;

8. Although alternatives to IATA Tariff Coordinating Conferences have been suggested over the years, there is presently no workable substitute;

9. There is no credible evidence from which it could be deduced that fares, conditions and standards established through IATA Tariff Coordinating Conferences have, or are likely to have an adverse effect on competition in Australia. All evidence is to the contrary. Theoretical possibilities do not form a basis for determining detriment under the relevant authorisation test;

10. Airline market fares for first class, business class and higher economy fares are established by airlines individually in a competitive market. The facts support a conclusion that airlines price their market fares independently of IATA Tariff Coordinating Conferences. The proposition in the ACCC Discussion Paper that there is a link between the two is flawed;

11. One fundamental flaw is that the ACCC Discussion Paper has used incorrect data in its 'longitudinal study' (discussed in detail in Section 7 of this submission). Notwithstanding that IATA provided the ACCC with the relevant IATA fares on 22 April 2005 in response to an ACCC request, the fare analysis in paragraphs 9.27-9.44 uses incorrect data for IATA fares;

12. Another flaw is that no attempt was apparently made in preparing the ACCC Discussion Paper to do a simple Granger causality test on the data (discussed in detail in paragraph 11 of Section 7 of this submission). Had such a test been done and the correct data used it would not have supported the hypothesis that IATA fares are a factor in causing parallel movement in market fares in Australia;

13. In any event, the assumption made in the ACCC Discussion Paper that the relevant market can be assumed to be represented by two routes - 'Australia' - Los Angeles and 'Australia' - London, is flawed for two reasons. First, the market, properly defined, is significantly broader and secondly, even if a narrow origin/destination approach were taken the routes chosen could not be said to be representative of all origin/destination routes (discussed in detail in paragraph 10 of Section 7 of this submission).
B. Erroneous assumptions

The ACCC Discussion Paper relies upon a number of incorrect assumptions about the IATA interlining system and the nature of the airline industry. The summary below identifies the principal erroneous assumptions and IATA's response to each.

<table>
<thead>
<tr>
<th>ACCC assumption</th>
<th>IATA response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. IATA interline fares can be compared with fares for point-to-point travel.</td>
<td>Incorrect. Airline point-to-point fares are just that: a fare for travel on that airline between two specific points with no or limited stopovers. IATA fares serve a very different function. They support a joint venture product that: • allows travellers to build itineraries they need to access multiple and varied destinations worldwide on multiple airlines; • provides 'last seat available' access where there is a need to change travel plans, on any participating airline, either before or after the journey has commenced; and • enables passengers to reach relatively isolated locations anywhere in the world on multiple airlines as required. Economy class APEX, PEX and similar special fares, also developed within IATA, allow interlining and are more directly comparable with point-to-point airline economy fares. However, these special fares have features over and above the point-to-point fares.</td>
</tr>
<tr>
<td>2. Given the current scope of airline services to/from Australia through online, code share and alliance services, there are point-to-point fares to almost any destination making the IATA interline system essentially irrelevant.</td>
<td>Incorrect. No single airline (alone or with code sharing) or alliance could, in the foreseeable future, serve the almost 3,900 destinations with scheduled services around the world. An alliance will not necessarily provide the best schedules or routing for a passenger.</td>
</tr>
<tr>
<td>3. The IATA fares are so expensive that almost no one uses them.</td>
<td>Incorrect. IATA multilateral interlining is a premium product and the fares reflect that</td>
</tr>
<tr>
<td>ACCC assumption</td>
<td>IATA response</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>premium. A conservative estimate is that every year not less than 10% of passengers from/to Australia (more than 2 million passengers(^2)) use the IATA joint venture product.</td>
<td>This view is based on the false assumption that almost no one uses IATA fares. As that assumption is false, the proposition can be dismissed.</td>
</tr>
<tr>
<td>4. As almost no one uses IATA fares there can be no public benefit in having them.</td>
<td>Untrue. The benefits are wide ranging, including:</td>
</tr>
<tr>
<td></td>
<td>• access to through fares;</td>
</tr>
<tr>
<td></td>
<td>• access to connecting services;</td>
</tr>
<tr>
<td></td>
<td>• flexibility for time-sensitive passengers;</td>
</tr>
<tr>
<td></td>
<td>• lower transaction costs;</td>
</tr>
<tr>
<td></td>
<td>• opportunity for smaller airlines to compete;</td>
</tr>
<tr>
<td></td>
<td>• expanded route networks;</td>
</tr>
<tr>
<td></td>
<td>• universal coverage; and</td>
</tr>
<tr>
<td></td>
<td>• the efficient use of assets.</td>
</tr>
<tr>
<td>5. There are no public benefits with IATA tariff coordination and interlining.</td>
<td>Untrue. No other system can deliver IATA multilateral interlining.</td>
</tr>
<tr>
<td></td>
<td>Alliances, the next closest alternative, do not have the global reach. Interlining across alliances would require tariff coordination. Inter and intra-alliance coordination also needs immunity.</td>
</tr>
<tr>
<td></td>
<td>Interlining is a joint venture product. It requires pre-agreed prices to operate.</td>
</tr>
<tr>
<td></td>
<td>Although theoretical alternatives to IATA tariff coordination have been suggested, no workable alternative has been found to replace it.</td>
</tr>
<tr>
<td>6. The benefits of interlining are available without IATA tariff coordination.</td>
<td>This theoretical possibility is highly unlikely because:</td>
</tr>
<tr>
<td></td>
<td>(^2) Based on total 2004 inbound and outbound scheduled international air traffic to/from Australia: BTRE 'International Scheduled Air Transport 2004'</td>
</tr>
</tbody>
</table>
**ACCC assumption**

- IATA takes its legal obligations very seriously and complies with them, as do attendees at IATA Conference meetings; and
- all participants (airlines, consolidators, agents) know what fares are in the market, in real time. The market is open and transparent. It is inherently unlikely that any additional useful information would emerge at an IATA Conference meeting.

The hypothesis is not supported by 1994-2001 data used by the ACCC. It is refuted by a simple Granger causality test of that data.

The relevant test is whether there is an anti-competitive effect - not whether there is a hypothetical possibility of that occurring.

8. **IATA fares, agreed between airlines in IATA Tariff Coordinating Conferences have a direct affect on airlines' market fares.**

There is no factual basis for this proposition. The longitudinal study undertaken by the ACCC, when data errors are corrected, does not support the proposition. It is refuted by a simple Granger causality test of the corrected data.

**C. The risks of revoking the Authorisation**

1. IATA's application has been a matter of public record since May 2004. Seven submissions were received from non-airline sources, each of which had an extensive knowledge of or policy responsibility for international air transportation or tourism. All but one lodged a substantive submission expressing support for the IATA application.

2. The ACCC Discussion Paper asserts that, because of the per se nature of section 45A of the *Trade Practices Act*, airlines would breach the Act if they continued to participate in IATA tariff coordination on routes from and to Australia without authorisation. Although IATA does not concede this is correct, it is clear that there would be a significant risk of litigation if re-authorisation were not granted. The threat of litigation is not a substitute for sound public policy, but it makes the grant of the re-authorisation IATA is seeking, and the legal certainty that re-authorisation would provide, all the more important to secure important public benefit.

---

SECTION 2

IATA'S RESPONSE TO THE SPECIFIC QUESTIONS RAISED IN THE DISCUSSION PAPER
SECTION 2

IATA'S RESPONSE TO THE SPECIFIC QUESTIONS RAISED IN THE DISCUSSION PAPER

1. Guiding principles

1.1 IATA has prepared this response to the specific questions raised in the ACCC Discussion Paper bearing in mind the following principles which, it has been advised, the ACCC applies in considering applications for re-authorisation such as the current IATA application:

(a) although, for the purpose of analysis, the ACCC may consider elements of the application separately, it is assessment of the entire subject matter of the application that is required.

(b) as the entire IATA system is currently authorised and it is that system, as a whole, for which re-authorisation is sought, the question ultimately for the ACCC is whether, taken overall, there are public benefits that outweigh any detriment that either will result, or is likely to result from the system as a whole: Re 7-Eleven Stores Pty Ltd (1994) ATPR 41-357 at 42,654;

(c) the role of the ACCC is to assess the IATA system presented to it - not to seek to re-design it: Re Australian Association of Pathology Practices Inc [2004] ACompT 4 at para 138;

(d) the relevant test for authorisation requires the public benefit of the IATA system to be balanced against 'the detriment to the public constituted by any lessening of competition that would result, or be likely to result'. The only detriment to be taken into account is detriment, if any, to competition;

(e) the assessment of benefit and detriment is not a matter of narrow analysis. It can only be made in the overall context of the function performed by IATA, of the international airline industry and of the markets affected by the system: Re Concrete Carters Association (Vic) (1977) 31 FLR 193 at 202;

(f) when assessing public benefit and detriment one of the benefits of a free market is that it provides consumers with a choice of a range of products and prices. It is not necessarily more efficient to use a cheaper product because the benefits conferred may be less than those of the dearer product: Re EFTPOS Interchange Fees Agreement (2004) ACompT 7;

(g) anti-competitiveness is not necessarily a detriment. Conduct which has anti-competitive elements may, in all of the circumstances, be a benefit. It will depend on the context of the particular application: Re 7-Eleven Stores Pty Ltd (1994) ATPR 41-357; Re Media Council of Australia (No 2) (1987) 88 FLR 1;

(h) the key indicia of effective competition in any relevant markets are that prices are flexible, reflecting the forces of demand and supply, and that there is independent rivalry in price, product and service offered to customers, having regard to the structure of the markets in which the firms operate: Re
(i) the IATA system has been found to be in the public interest notwithstanding more significant potentially anti-competitive aspects and a less competitive market than now exists. In now reviewing the system the starting point is that the system is authorised and that should be taken into account. This should not be a 'clean sheet' exercise; and

(j) in considering submissions made in support of, or opposing an authorisation, the ACCC's role involves it weighing each submission according to administrative law principles. The ACCC should undertake this task without any predisposition. It should do so on the basis of facts. The ACCC must, in particular, be careful not to give weight to unsubstantiated and untested allegations: Re Howard Smith Industries Pty Ltd (1977) 28 FLR 385.

2. Specific responses and comments

2.1 An annotated version of the ACCC Discussion Paper incorporating comments by IATA to the issues raised by the paper is contained in Section 3 of this submission.

2.2 IATA's responses to the 24 key issues identified in the ACCC Discussion Paper are also set out below. For ease of reference the key issues are reproduced in full with IATA's comment provided after each.

ACCC Issue 1. - The counterfactual

When assessing IATA's application for authorisation the ACCC must compare public benefits and anti-competitive detriment that Tariff Coordination would generate in the future if the authorisation is granted with the position if the authorisation is not granted.

To what extent would international airlines participate in IATA's Tariff Coordination activities in relation to routes involving Australia if the ACCC does not provide authorisation for those activities?

IATA comment no 1

In summary, as the ACCC Discussion Paper asserts that, because of the per se nature of section 45A of the Trade Practices Act, airlines would breach the Act if they continued to participate in IATA tariff coordination on routes from and to Australia without authorisation, airlines are unlikely to take the risk of civil (and possibly criminal) proceedings by doing so. This is not something the international airline industry should be exposed to. It makes the grant of the re-authorisation IATA is seeking all the more important.
ACCC Issue 2. - Information sharing

The Provisions for the Conduct of IATA Traffic Conferences indicate that the sharing of information, especially in relation to costs, is an essential part of the tariff coordination process.

Why would it be unreasonable to regard the sharing of knowledge between competing airlines at IATA Tariff Coordinating Conferences as resulting in a lessening of competition between airlines?

IATA comment no 2

In summary, it would be unreasonable for the ACCC to form the view that IATA Tariff Coordinating Conferences result in a lessening of competition between airlines, whether as a result of information sharing or otherwise, because all evidence is to the contrary.

Transparency pricing is an indicator of an open and competitive market. All evidence supports the fact that there is full, open transparency on each airline's market fares. Market fares are openly published within the industry. That occurs (and will continue) regardless of IATA Tariff Coordinating Conferences. IATA conference staff are aware of the anti-trust implications and take great care to ensure that any knowledge-sharing is appropriate.

Unsubstantiated theoretical arguments should not form a basis for the ACCC to decide this application.

ACCC Issue 3. - Impact on market fares

IATA has submitted that there are no linkages between IATA fares agreed at Tariff Coordinating Conferences and market fares.

On the basis of the analysis undertaken by the ACCC, why would it not be reasonable to draw the conclusion that airline market fares for first class, business class and higher economy fares can be affected by the actions of competing airlines in setting fares at IATA Tariff Coordinating Conferences?

If it is not the IATA fare that is the factor causing the parallel movements in first class, business class and higher economy fares, what is the factor and why does that factor not affect discount economy fares?

IATA comment no 3

In summary, it would not be reasonable for the ACCC to draw the conclusion that airline market fares for first class, business class and higher economy fares can be affected by the actions of competing airlines in setting fares at IATA Tariff Coordinating Conferences because the evidence is to the contrary. The analysis in the ACCC Discussion Paper is seriously flawed.

Notwithstanding that IATA provided the ACCC with the relevant IATA fares on 22 April 2005 in response to an ACCC request, the fare analysis in paragraphs 9.27-9.44 does not use the correct IATA fares. In addition, no attempt was apparently made in preparing the ACCC Discussion Paper to do a simple Granger test on the data. Such a test using the correct data would not have supported the hypothesis that IATA fares are a factor in causing parallel movement in market fares in Australia. In any event no such parallel movement occurs.

Furthermore, a straight comparison of IATA fares on any given route and market fares offered by an airline for online transportation on the route is not a 'like with like' comparison. The IATA product
allows multiple stopovers and transit points not available with online point-to-point fares, as well as
the flexibility to change routing, cancel sectors, etc.

**ACCC Issue 4. - Seasonality periods**

Some economy fares agreed by airlines at IATA Tariff Coordinating Conferences vary according
to seasons also agreed at the Conferences.

*Given that major airlines have acknowledged that IATA seasonality periods agreed for
setting fares at IATA Tariff Coordinating Conferences are also used in the setting of
market economy fares, why should it not be concluded that there is consequently a
lessening of competition in the setting of market fares?*

**IATA comment no 4**

Seasonality periods only apply to special IATA interlineable economy fares. They reflect the supply
and demand reality and are needed for interlining. They have no adverse effect on competition.
Airlines are free to apply them as a standard for establishing their own fares or not as the case may
be. The major airlines that the ACCC has referred to have stated that they have not followed the
standard when they have found that this brings a competitive advantage.

If seasonal levels were not established annually at meetings of the IATA Tariff Coordinating
Conferences, those Conferences would need to meet more frequently and much closer to the fare
implementation dates in order to tailor the fare levels to supply and demand, with consequent
increased resource costs.

There is no distinction in principle in setting a fare and in establishing a period of time for which that
fare is available (i.e. seasonality).

**ACCC Issue 5. - Fare conditions**

Apart from agreeing IATA fares to be applied on routes at IATA Tariff Coordinating
Conferences airlines also agree conditions attached to fares such as children's fare rates, fare
categories and excess baggage rates.

*To what extent does the agreement by airlines of fare conditions, including children's
fares, fare categories and excess baggage rates, at IATA Tariff Coordinating Conferences
give rise to anti-competitive detriment?*

**IATA comment no 5**

Fare conditions established through IATA Tariff Coordinating Conferences are a facilitative
standard, necessary for interlining but also of general utility as an industry standard.

Standards aim 1:—

1. To achieve maximum overall economy in terms of:
   a. cost;
   b. human effort and

---

1 Verman: *Standardisation: A New Discipline*, page 39
(c) conservation of essential materials as opposed to more readily available materials.

This involves judicious … adoption of production and handling practices known or expected to be most economical.

(2) To ensure maximum convenience in use.

It is this objective of standardization which leads to simplification, rationalisation, interchangeability of parts and freezing of dimensions of components. Increased productivity, elimination of unnecessary waste and reduction of inventories are the consequential benefits.'

IATA fare conditions meet each of these criteria, leading to simplification, rationalisation, interchangeability.

As with all standards, airlines are free to follow these standards or not, except when interlining through the IATA system. They may choose to do so or not according to their own requirements. The standards have no adverse effect on competition. Where airlines have found it a competitive advantage to not follow the standards they have done so and this will continue.

As far as likely competitive effect is concerned, excess baggage charges are ancillary to the air transportation product, discretionary in nature given available consumer information and inherently unlikely to affect competition.

There is no distinction in principle in setting fares for adults and establishing children's fares. For interlining to work the participants need to also agree the conditions applicable to a fare and any excess baggage charge that might apply.

ACCC Issue 6. - Air services agreements

IATA has submitted that air services agreements which Australia has with twelve countries make specific reference to IATA Tariff Coordination and Australia has an international obligation to comply with those air services agreements.

To what extent should the ACCC in determining its views on IATA Tariff Coordination have regard to tariff provisions of air services agreements between Australia and countries other than Japan (for all traffic) and Thailand (for inbound traffic)?

IATA comment no 6

IATA notes the submission made by the Department of Transport and Regional Services that "Tariff provisions within Australia's air services agreements are treaty level obligations that are enforceable under international law." The Department also suggested that all air services agreements containing IATA tariff provisions should be considered equally regardless of the status of interim administrative arrangements.
ACCC Issue 7. - International Civil Aviation Organisation (ICAO)

IATA has submitted that ICAO resolutions relating to competition and interlining are resolutions to which the ACCC should have regard from the viewpoint of the public benefit of ensuring international comity.

To what extent could any decision made by the ACCC on IATA Tariff Coordination using net public benefit criteria and Australian competition law be regarded as inconsistent with ICAO recommendations?

IATA comment no 7

In summary, the relevant issue is one of scope. The ACCC focuses on public benefit issues primarily in the context of their affect domestically, whereas the ICAO recommendations are directed to the public benefit to all nations of safe, reliable and efficient international air travel. Each is important.

In asking this question the ACCC Discussion Paper has focussed on the wrong paradigm. A decision made by the ACCC which does not maximise the public benefit to Australia through enhancement of welfare of all Australians by giving proper weight to the role ICAO plays in providing safe, reliable, efficient international air travel would overlook a significant public benefit.

ACCC Issue 8. - Accessing offline destinations

IATA has submitted that there are many destinations in the world not served by flights by any one airline, alliance or code share and the only way to travel seamlessly to or from such points is by utilising the IATA Interline System.

Is it correct that the number of offline destinations that can only be reached using IATA interline fares has substantially reduced since IATA Tariff Coordination was last authorised in 1985?

IATA comment no 8

Since 1985 the number of primary and secondary airports has expanded dramatically as has the number of airlines operating scheduled passenger services. As passenger demand has expanded and bilateral government negotiations expanded capacity available on major routes airlines have responded by expanding online services and their use of alliances and code shares (where permitted by governments) in line with demand.

While, as a consequence, it can be asserted that the absolute number of destinations able to be accessed online has increased, it is not possible to conclude that the number of offline destinations that can only be reached using IATA interline fares, for all or part of the journey, has substantially reduced. The opposite is likely to be the case.

It is not just a question of passenger access to offline destinations. The IATA system provides access to all destinations worldwide using the services of all participating airlines allowing a consumer to choose the schedules, stopover cities and airlines that suit his or her needs.

All that can be concluded is that, compared with 1985, there are more people travelling to more places on more airlines than ever before.

The fact is that IATA’s member airlines have responded to market demand in expanding their services and that this has been facilitated by the IATA system, not retarded by it.
However, even if the number of offline destinations that can only be reached using IATA interline fares had substantially reduced, that would not lead to the conclusion that IATA interlining is not of public benefit. It would merely be a factor in assessing the quantum of that benefit.

ACCC Issue 9. - Travel flexibility

IATA interline fares have been described by IATA as providing flexibility, especially for time sensitive travellers, by providing the ability to change airlines under circumstances such as a missed connection or a weather disruption to an itinerary.

*Is it correct that for passengers seeking travel flexibility there is a substantially wider range of options now available beyond IATA agreed fares compared to 1985 when Tariff Coordination was last authorised?*

**IATA comment no 9**

As noted in IATA's comment to ACCC Issue 8, all that can be concluded is that, compared with 1985, there are more people travelling to more places on more airlines than ever before. For some destinations travel flexibility will have increased with airline frequency. For many others there has been no change.

Even if there is a wider range of options now available for passengers seeking travel flexibility, that would not lead to the conclusion that IATA interlining is not of public benefit. It would be merely one factor in assessing the quantum of that benefit.

It is significant that IATA's member airlines have responded to market demand in expanding their services and that this has been facilitated by the IATA system, not retarded by it.

ACCC Issue 10. - Incidence of sale of IATA interline fares

IATA has submitted that over a twelve month period around 21% of all tickets sold by travel agents in Australia were IATA interlineable tickets, including 18% of all economy tickets.

*Is it correct, consistent with information provided to the ACCC by major travel agents in Australia and by Qantas, that in Australia IATA interlineable fares are rarely purchased by leisure passengers (who make up the majority of travellers), and are only purchased with low frequency by business travellers?*

**IATA comment no 10**

It is neither correct nor consistent with information provided by third parties that in Australia interlineable fares are rarely purchased by leisure travellers nor is it correct that IATA fares are only purchased with low frequency by business travellers. IATA rejects both propositions and also the proposition that leisure passengers and business travellers constitute different markets.
ACCC Issue 11. - Utilisation of flexibility of IATA fares

No airlines were able to respond to an ACCC request for advice on the extent to which IATA fare flexibility was used. IATA relied on a 1998 Heathrow passenger survey and IATA Clearing House data in making a claim that the level of 'Interlining' is significant.

*Is there any reliable evidence available that indicates, contrary to information provided to the ACCC by Amex, that the incidence of travellers using IATA interlineable tickets to actually change airlines is not very low?*

**IATA comment no 11**

The answer to this question is yes. The facts establish that a large number of people buy IATA interlineable tickets each year in Australia for a range of reasons including the opportunity to change airlines when the need arises.

However, it would be a mistake to regard the incidence of travellers changing airlines as the true measure of benefit. The opportunity to change, and the insurance that provides, is just one benefit.

It would also be a mistake to assume that the quantum of people who may change airlines is an appropriate measure. A more meaningful measure is the importance of the need to change airlines for those who do so.

Even if there were low use of the flexibility of IATA fares this does not imply that those fares are of little value. The flexibility IATA interlining provides should be conceptualised as an insurance policy. Flexibility is an insurance.

ACCC Issue 12. - Access to through fares

IATA has claimed that one of the most significant consumer benefits of interlining under the IATA system is that consumers have access to through fares which are developed by the Tariff Coordinating Conferences on most routes.

*Why should the public benefit from IATA ‘through fares’ on routes where market fares are freely available not be regarded as being at best marginal?*

**IATA comment no 12**

Inherent in this question is the erroneous assumption that IATA fares are rarely used.

The benefit of IATA fares is that they provide an alternative, even on routes where there are market fares. That benefit is a real benefit. It is not marginal, especially for those passengers who need the flexibility that IATA interlining provides. Assessment of public benefit is not merely an arithmetic exercise.

The ACCC Discussion Paper proceeds on an assumption that the IATA product is comparable with a flight taken on a single airline on any given route (eg Sydney - London). That is not so. A passenger travelling online on a route will have limited stopover/transit choices. By comparison, a passenger travelling on an IATA interlineable ticket will have a multitude of choices. For instance, between Sydney and London on an IATA interlineable ticket, depending on the routing chosen the passenger may stopover at or transit through as many as 15 intermediate destinations on a single journey - something not possible on any single airline or alliance.
ACCC Issue 13. - Access to connecting services

IATA has claimed that connecting services give passengers the opportunity to travel between city pairs that are either not served by an online service or, where the online service operated by one airline is limited in frequency, not operated at the desired time of the day or day of the week, or is fully booked at the time and date requested.

Has the extent of any public benefit associated with access to connecting services through the use of IATA multilateral interlining been substantially reduced by the extensive reach of on-line air services, the high cost of accessing connecting services using IATA agreed fares, strong growth in airline frequencies on major routes and alliance linkages?

IATA comment no 13

IATA rejects the proposition, expressed in this question, that there is a high cost of accessing connecting services using IATA fares.

The other factors mentioned do not remove the benefits of IATA interlining. They merely provide an alternative to it in some circumstances, reinforcing the competitive nature of the international airline market and the range of choice available to consumers.

ACCC Issue 14. - Flexibility for time-sensitive passengers

IATA has submitted that IATA Tariff Coordination gives rise to a public benefit because passengers who choose to buy IATA interline tickets have the ability to change the date and time of their ticket, cancel their ticket and receive a refund, depart without a return reservation, change airlines, change routes (subject to certain distance limits) and add or delete stopping points.

To what extent is the value of any public benefit associated with IATA multilateral interlining providing flexibility to time sensitive passengers diminished when taking into account the availability of similar flexibility in airlines' own fares and the limited number of travellers who seek and utilise such flexibility?

IATA comment no 14

In summary, the benefit for those who choose to use the IATA product remains as it always was and the availability of other fares does not diminish this.

The explicit assertion that there is a 'limited number of travellers who seek and utilise' the flexibility provided by IATA interlining is an assumption not supported by the facts.

To the extent that this question implies that the flexibility inherent in an IATA fare is only relevant to time-sensitive passengers, that implication is wrong. IATA flexibility has many facets including the flexibility to book a journey which suits the need of the consumer, choosing from the schedules of all participating airlines, and the flexibility to change routings, intermediate stopping points or other aspects.
ACCC Issue 15. - Baggage connectivity

IATA has claimed that the IATA interline system allows passengers to check their baggage in at their departure airport and have it arrive at the passenger's destination, handled from one airline to another at each point in the journey at which the passenger changes airlines.

Why should weight of any significance be attached to any public benefit arising from baggage check through, given the widespread availability of baggage check through on non-IATA fares, its limited application and the few travellers who actually change airlines when using IATA fares?

IATA comment no 15

Bilateral baggage connectivity as we know it today hangs off the standards and procedures established through IATA, but that connectivity is not nearly as widespread as the question implies and is receding.

IATA baggage connectivity is one of the core benefits of the IATA interline system.

As cost-cutting measures continue in the industry airlines will cease offering bilateral interlining of baggage. This is already occurring.\(^2\)

The explicit assertion that 'few travellers … actually change airline' is an assumption not supported by the facts.

ACCC Issue 16. - Lower transaction costs

IATA has claimed that with IATA interlining costs are lower than would be involved if airlines had to agree bilaterally to transfer passengers. Each time an interlineable fare is requested it may be quoted without the need to seek ad hoc concurrence from other airlines involved in the transportation.

How can there be lower transaction costs of any significance given the limited number of travellers who interline using IATA agreed fares? Would the cost of administering and operating the IATA Tariff Coordination system offset at least in part any lower transaction cost benefits?

IATA comment no 16

The explicit assertion that there is a 'limited numbers of travellers who interline using IATA agreed fares' is an assumption not supported by the facts.

Tariff coordination is a means by which smaller and non-aligned airlines can participate in the global market and larger airlines without a significant presence in Australia can provide service to and from Australia. If tariff coordination is removed this will increase market concentration.

\(^2\) For instance BMI has recently announced that it will cease interlining baggage except for online or IATA interline services: [http://www.flybmi.com/bmi/en-us/travelinformation/throughcheck-in.aspx](http://www.flybmi.com/bmi/en-us/travelinformation/throughcheck-in.aspx)
ACCC Issue 17. - Opportunity for smaller airlines to compete

IATA has claimed that the IATA interline system allows access to network economies for all airlines, rather than only for those who are large enough to operate substantial networks or are in alliances.

To what extent are any recognizable benefits for smaller airlines (and possibly consumers) dependent on factors such as: their ability to form commercial relationships with other carriers; whether Tariff Coordinating Conference outcomes are in their favour; the incidence of IATA fare purchasers travelling to destinations they service; and competing services from low cost carriers?

IATA comment no 17

The facts support the proposition that smaller airlines do benefit from the IATA interline system and the bilateral commercial relationships they have been able to form based on that system.

The inference that the outcome of IATA Tariff Coordinating Conferences favours larger airlines is untrue. Conference outcomes are negotiated in good faith and require the unanimous agreement of participating airlines, large and small. Many small airlines have chosen to participate in IATA's multilateral interline arrangements from which it can be deduced that they benefit as a result.

Another key point overlooked in the ACCC Discussion Paper is that recognisable benefits from the IATA system for smaller airlines (and the consumers they serve) is not dependent on their ability to form commercial relationships with other airlines. That is the benefit of the IATA system.

Once an airline, large or small, enters IATA's multilateral interline arrangements that airline has the benefits of interlining and all of the other technical and facilitative benefits that the total IATA system provides. They do not need to negotiate bilateral arrangements with other airlines to secure these benefits, although they are open to do so if that suits their individual commercial interests.

ACCC Issue 18. - Expanded route networks

IATA has submitted that the IATA interline system allows airlines to offer services beyond their own route networks and airlines have very substantial incentives to interline (using IATA interlineable fares) when combined services are the only way in which they can participate in origin-destination services.

The high cost to consumers of the interlineable fares required to access the expansion routes is likely to be a barrier to the ability of an airline to compete on those routes. Under these circumstances while IATA multilateral interlining does in theory increase the networks of individual airlines can the expanded component of their networks be regarded as effectively utilised?

IATA comment no 18

IATA rejects the proposition that IATA fares are a "high cost to consumers". They are a premium product available in the market and utilised extensively by those who need or wish to have the benefits the product delivers.

The barriers hypothesised in this question do not exist. There is simply a range of products available in Australia from which consumers can and do choose, including the IATA product.
ACCC Issue 19. - Universality

IATA has submitted that a public benefit of universality arises with around 335 airlines (at the time of the IATA submission) participating through the IATA interline arrangements, providing scheduled international and domestic air services to almost every airport in the world. While other systems could conceivably emulate features of the IATA system, none have replicated it, nor is replication likely.

To what extent is universality a public benefit independent of other benefits claimed by IATA?

IATA comment no 19

Universality, like all of the public benefits IATA has pointed to in its original submission on tariff coordination and interlining and each other submission IATA has made on the IATA system, is interlinked with every other public benefit.

If the system were not re-authorised this would place its universality at risk by removing IATA interlineable tickets from the range of products available to Australian consumers and removing Australia as a destination accessible on IATA interlineable tickets.

While it may assist analysis to dissect and consider every individual public benefit individually it is the totality of public benefits likely to result from the entire IATA system that is to be balanced against any likely anti-competitive effect of that system.

ACCC Issue 20. - Efficient use of assets

IATA has submitted that IATA interlining promotes greater use of aviation assets and infrastructure. Because interlining provides feeder passengers into an airlines network, airlines achieve greater utilisation of their aircraft and infrastructure. Overall taken globally less aircraft are needed, less fuel consumed and environmental impact is reduced.

Claims that the IATA interlining results in more efficient use of assets must be assessed against the likely behaviour of airlines in the counterfactual, ie if IATA Tariff Coordination is not authorised. Is the utilisation of IATA interlineable fares at such levels that airlines would change their routes and schedules of operation absent IATA Tariff Coordination on routes involving Australia?

IATA comment no 20

The short answer to this question is that the economic viability of each airline varies, but overall the international airline industry is not one which is attended by profits, let alone super profits. Only the best managed airlines recover their cost of capital. Most perform at consistently lower levels than that. Airlines make decisions about the routes on which they will operate based on a business case for doing so and maintain services where it is financially appropriate to do so. Interline traffic, including IATA interline traffic, makes a significant contribution to the economics of most airlines. Premium fare passengers, including those for whom an IATA fare is recovered, whether for an entire journey or only some sectors, are extremely important to the economics of airline routes.

The consequence of this is that, while it is possible that the loss of the IATA system, including tariff coordination, would have an immediate adverse effect sufficient to cause an airline to drop routes, this is unlikely. What is likely is that the loss of the IATA system, including tariff coordination, would have a deteriorating effect over time, contributing to some overseas airlines reassessing and possibly dropping some routes or services to Australia.
ACCC Issue 21. - Natural cap on prices

IATA has claimed a public benefit from fares established through the IATA Tariff Coordinating Conferences providing a natural cap on competitive market fares. It is claimed that by establishing a fare for a premium product, the fully interlineable ticket, a natural cap is placed on fares generally.

*Market fares are generally a product of supply and demand in competitive markets while IATA interlineable fares are agreed by airlines taking into account costs. Under these circumstances does the fact that market fares are invariably lower than IATA interlineable fares for the same class of ticket on the same route reflect IATA fares being a natural cap on fares or the method by which the fares are set?*

### IATA comment no 21

The answer to this question is yes.

There are a number of false assumptions evident from this question. They are:

- that market fares are all the same. This is not so. There is, in keeping with good commercial practice and good economic theory, a range of market fares for each route and class of service;

- that market fares are available to and from every place. That is not so. Market fares fall into two categories - net fares and airline filed fares - but neither type of fare is available for all international destinations;

- that market fares are 'invariably lower than IATA interlineable fares'. While this is generally (and understandably) so given that market fares are more restricted than IATA fares and do not offer the same range of benefits, it is by no means always the case as this submission demonstrates; and

- even where there may be a cheaper market fare for a journey IATA fares play a role in facilitating the market fare, directly or indirectly, on one or more sectors of the journey when the marketing airlines need access to another airline's flights.
ACCC Issue 22. - IATA fares as a base for airline fare structures

A number of airlines have submitted to the ACCC that fares agreed at IATA Tariff Coordinating Conferences provide a basis for fare frameworks within their own airlines and provide reference fares for use in special prorate agreements.

*How could the use by airlines of fares agreed in IATA Tariff Coordinating Conferences for the purposes of setting benchmarks for market fares or providing a basis for fares used in bilateral agreements be regarded as being in the public interest?*

**IATA comment no 22**

Fares established at IATA Tariff Coordinating Conferences do not set benchmarks for market fares as stated in this question.

Otherwise, the answer to this question is that IATA fares are in the public interest for all of the reasons set out in the IATA submissions lodged to explain the various elements of the system for which re-authorisation is sought, including the IATA Tariff Coordinating Conferences and Interlining submission dated 24 May 2004, in the many third party submissions that support IATA’s application and in this response.

ACCC Issue 23. - Tourism

While IATA has made no claims of tourism benefits, submissions received by the ACCC from a number of other parties suggested that tourism to Australia could be adversely affected in the event IATA’s Tariff Coordination activities were not authorised.

*The levels of fares agreed at IATA Tariff Coordinating Conferences are such that they appear to be only rarely used by leisure travellers who are generally price sensitive. Under these circumstances, could any benefit of substance to Australian tourism from IATA Tariff Coordination be recognised? Is it possible that IATA Tariff Coordination is actually detrimental to tourism?*

**IATA comment no 23**

The short answer to this question is that it is based on the false assumption, unsupported by fact, that IATA fares are 'only rarely used by leisure travellers' and the equally incorrect assumption that Australian tourism does not benefit even if, as is asserted, relatively few 'leisure travellers' utilise IATA fares. These assertions are contrary to the opinion of the tourism experts who support the IATA application - opinions that appear to have been largely dismissed by the ACCC Discussion Paper without due consideration.
ACCC Issue 24. - Conditional authorisation

In circumstances where the ACCC is concerned that there may be some uncertainty whether the public benefit outweighs the anti-competitive detriment, the ACCC may consider whether it is possible to grant authorisation subject to conditions aimed at reducing, as far as possible, that uncertainty.

*Is it possible to impose conditions which would permit IATA interlining to be available to offline destinations while at the same time removing detriment associated with the agreement of IATA fares for destinations reachable online either via direct services or through commercial arrangements between airlines of one form or another?*

### IATA comment no 24

The short answer to this question is that anything is theoretically possible if cost is not an issue, but there is a significant difference between theory and reality. The reality is that the current system is the one which works. This does not mean that the industry will not innovate over time and that alternatives may not emerge, but there is presently no practical alternative to IATA tariff coordination.

IATA also points out that the role of the ACCC is to assess the application as is - not to seek to fashion some other system through conditions. Conditions may only be permissibly used if they are needed to redress any imbalance between likely anti-competitive effects and public benefits. IATA submits that the balance in favour of authorisation in this case is clear and no such conditions are appropriate or warranted.
SECTION 3

ANNOTATED VERSION OF ACCC DISCUSSION PAPER A90855/3
1. INTRODUCTION

History of the Application

1.1 On 24 December 1985, Authorisation A90435 was granted to the International Air Transport Association (IATA) in respect of certain rules, regulations, agreements and resolutions made by it as part of its role in the co-ordination of procedures and arrangements for the international movement of people and goods by air. Authorisation was granted by the Trade Practices Commission, now known as the Australian Competition and Consumer Commission (the ACCC).

Application A90855

1.2 On 13 November 2002, IATA lodged Application No A90855, seeking the revocation and substitution of Authorisation A90435.

IATA comment

IATA lodged Application A90855 in response to a request from the ACCC. IATA did so in order to facilitate the ACCC's wish to reconsider the original authorisation. IATA's view is that the 1985 Authorisation, being an authorisation unlimited as to time, remains appropriate and relevant and does not need to be replaced, but nevertheless agreed to the ACCC's request that a review be undertaken.

1.3 The Application sought the revocation of Authorisation A90435 and its substitution with an authorisation in respect of the contracts, arrangements, understandings and conduct which constitute:

- the IATA Cargo Agency System;
- the IATA Scheduling System;
- the IATA Prorate System;
- the IATA Services System (passengers and cargo);
- the IATA Clearing House System; and
- the IATA Tariff System (passengers and cargo).

IATA comment

IATA does not seek revocation of Authorisation A90435. It has responded cooperatively with the ACCC's request to review the IATA arrangements as they operate in relation to Australia. IATA would prefer to leave the current authorisation in place.

1.4 IATA has made submissions to the ACCC in relation to each of these areas of conduct.
Authorisation

1.5 The ACCC is the Australian Government agency responsible for administering the Trade Practices Act 1974 (the Act). A key objective of the Act is to prevent anti-competitive conduct, thereby encouraging competition and efficiency in business, resulting in a greater choice for consumers in price, quality and service.

1.6 The Act, however, allows the ACCC to grant immunity from legal action for anti-competitive conduct in certain circumstances. One way in which parties may obtain immunity is to apply to the ACCC for what is known as an 'authorisation'.

1.7 In general in order to grant an authorisation the ACCC must be satisfied that the public benefits arising from the particular conduct outweigh any public detriment associated with the conduct.

1.8 In addition, the ACCC may grant an application by the holder of an authorisation to revoke its authorisation and grant a substitute authorisation where, in broad terms, the public benefit from the conduct proposed to be authorised (that is, under the substitute authorisation) outweighs the public detriment from any lessening of competition caused by that conduct.1

Consideration of the application

1.9 Due to the range and complexity of the conduct covered by Application A90855, the ACCC is issuing a series of discussion papers, each dealing with a specific component of the conduct for which authorisation is sought and examining substantive issues raised by that conduct.1

1.10 The discussion papers are being circulated to interested parties. The ACCC will consider submissions made by interested parties in response to the discussion papers when preparing one or more draft determinations which consolidate the ACCC's views on the full range of conduct covered by the Application and indicate whether the ACCC proposes to grant or deny authorisation.

1.11 Once a draft determination is released, the Applicant or any interested party may request that the ACCC holds a pre-determination conference. A pre-determination conference provides the Applicant and interested parties with the opportunity to make oral submissions to the ACCC on matters raised in a draft determination. The ACCC will also invite interested parties to lodge written submissions on the draft.

1.12 The ACCC reconsiders the Application taking into account any comments made at a pre-determination conference (if one is requested) and any other submissions received and issues a final determination.

Purpose of Discussion Paper

1.13 This Discussion Paper is the third in the series of discussion papers being issued by the ACCC in relation to Application A90855. It examines the public benefits and anti-competitive detriment associated with IATA Passenger Tariff Coordination (Passenger Tariff Coordination). Earlier papers examined the IATA Scheduling System and the IATA Cargo Agency System.

---

1 Subsection 91 C(7) of the TPA. Before the Commission may grant an authorisation in these circumstances, it must be satisfied that it would be able to grant authorisation if the application were an original one, having regard to the relevant tests. In this instance, the relevant tests would be those contained in subsections 90(6), 90(7) and 90(8) of the TPA. Whilst there is some variation in the language in the tests for subsection 90(6) and 90(7) and the test for subsection 90(8), the ACCC has until recently adopted the previous view of the Trade Practices Tribunal (now the Australian Competition Tribunal) that, in practical application, the tests are essentially the same. This view has now been reconsidered by the Australian Competition Tribunal and it has found that the two tests are not precisely the same. In particular the Tribunal considered that the test under section 90(6) was limited to a consideration of those detriments arising from a lessening of competition. It was the Tribunal's view that the test under section 90(8) was not so limited.
IATA comment

IATA supports the ACCC’s approach in issuing discussion papers on each element of the application. In its view this approach assists in reducing the cost airlines are required to bear in this process by focussing attention on key issues the ACCC wants to concentrate on.

In order to assist the ACCC in the preparation of discussion papers IATA has lodged factual submissions for each element of the application, explaining the function of each element and its effect on the overall IATA system.

It is, in IATA's submission, nevertheless important to point out that IATA has lodged only one application. It has not lodged separate applications for each element of the system. This is because the IATA system is a total system with each part integrated into, supporting and drawing support from other elements.

It follows that, although analysis may be assisted by looking at each element in isolation, it is a qualitative assessment of the sum total of public benefits from the system as a whole that is to be weighed up - not isolated individual benefits arising from some element of the system.

1.14 The views expressed in this discussion paper are preliminary in nature and aim to foment consideration of issues associated with Passenger Tariff Coordination by parties engaged or affected by it. The issue of the paper should not been seen as indicating that the ACCC has finalised its views on any aspect of Passenger Tariff Coordination nor should the paper be taken as providing a guide to the ACCC's ultimate assessment of Application A90855.

Chronology

1.15 A chronology of events associated with the ACCC's examination of IATA's Tariff Coordination activities appears below:

<table>
<thead>
<tr>
<th>Date</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>24 December 1985</td>
<td>Trade Practices Commission authorisation A90435 granted to IATA activities including Tariff Coordination.</td>
</tr>
<tr>
<td>13 November 2002</td>
<td>IATA lodged Application A90855 with ACCC for revocation and substitution of A90435.</td>
</tr>
<tr>
<td>24 May 2004</td>
<td>IATA lodges submission in support of Tariff Coordination component of A90855</td>
</tr>
<tr>
<td>13 August 2004</td>
<td>ACCC seeks comments from interested parties on IATA Tariff Coordination submission.</td>
</tr>
<tr>
<td>17 November 2004</td>
<td>ACCC seeks additional information from IATA on Tariff Coordination by 28 January 2005.</td>
</tr>
<tr>
<td>25 November 2004</td>
<td>ACCC meeting with American Express and United Airlines.</td>
</tr>
<tr>
<td>9 December 2004</td>
<td>ACCC meetings with Harvey World Travel and Qantas.</td>
</tr>
<tr>
<td>2 February 2005</td>
<td>ACCC meeting with Flight Centre.</td>
</tr>
<tr>
<td>15 March 2005</td>
<td>Presentation to ACCC on IATA Tariff Coordination by IATA representatives (not covering matters raised in ACCC letter of 17 November 2004).</td>
</tr>
<tr>
<td>5 April 2005</td>
<td>IATA submission on selected issues raised in ACCC correspondence to airlines of 13 August 2004.</td>
</tr>
</tbody>
</table>
Further submissions

1.16 The ACCC invites interested parties to make written submissions on the issues raised in this discussion paper, or any other issues that interested parties consider relevant to the ACCC’s assessment of IATA Passenger Tariff Coordination. Submissions should be addressed to:

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

1.17 Submissions should be lodged by cob 30 August 2005.

2. THE APPLICANT

2.1 IATA is a non-governmental international trade association comprised of most of the carriers in the world that operate scheduled international air services in the transport of passengers, mail or cargo. IATA is incorporated under Canadian law.

Membership

2.2 As of May 2004, IATA member airlines accounted for over 270 of the world's airlines and about 95% of all international scheduled air traffic. Active Membership is only open to carriers operating international air services for the public transport of passengers, mail or cargo by aircraft. Airlines operating services other than international air services may become Associate Members of IATA. Associate Members are not allowed to vote at certain IATA meetings.

IATA comment

As at 30 September 2005 IATA had 265 members comprising 94% of international scheduled air traffic.
IATA's objectives

2.3 IATA's mission, as stated in its Articles of Association, is to 'represent and serve the airline industry'. The relevant Article states that in carrying out this mission IATA shall:

- promote safe, reliable and secure air services for the benefit of the people of the world;
- provide means of collaboration among airlines engaged directly or indirectly in international air transport;
- co-operate with the International Civil Aviation Organisation (ICAO) and other relevant organisations.

IATA's conference structure

2.4 The primary means by which airlines pursue IATA's purposes, objects and aims is through the IATA Traffic Conference structure, established pursuant to IATA's Act of Incorporation through the Provisions for the Conduct of IATA Traffic Conferences.

3. THE CONDUCT

3.1 There are two main areas of conduct falling under the broad heading of IATA Tariff Coordination:

- the Provisions for the Conduct of IATA Traffic Conferences (to the extent they relate to Tariff Coordination)
- Resolutions adopted at IATA Tariff Coordination Conferences.

3.2 Separate Coordinating Conferences are convened for tariffs associated with the transport of passengers and cargo. This discussion paper focuses on the coordination of tariffs for the carriage of passengers.

IATA comment

IATA reserves the term 'Conference' for the institutional grouping of members responsible for the various aspects of its activities. Where members of a conference meet this is referred to as a meeting of the Conference.

Tariff Coordination and Interlining

3.3 IATA has submitted that Tariff Coordination has two distinct and different roles. First it is part of the process by which 'many governments' pursuant to bilateral agreements with other countries (commonly entitled Air Services Agreements or ASAs) have fares determined for government review and approval. Secondly it establishes the commercial basis for multilateral interlining by determining a fare which will prevail across a route where a change of airline is required to complete the journey. Both of these roles will be examined more closely later in this paper.
3.4 As will be discussed later in this paper the requirement for Tariff Coordination to occur to meet the requirements of bilateral air services agreements has diminished over time with the liberalisation of the bilateral system. The primary purpose of tariff coordination is to determine fares for interline travel, ie travel using more than one airline.

3.5 Tariff coordination is one of a number of elements which together constitute the IATA interline system:

A. Airlines agree between each other that they will accept each others tickets where those tickets incorporate an interlineable fare (IATA Multilateral Interline Agreement).

B. Interline fares are determined jointly by airlines at Tariff Coordinating Conferences (Tariff Coordination).

C. Airlines agree how revenue from the sale of a ticket with an interlineable fare is to be apportioned between the carriers who accept the ticket as part of an interline journey (IATA Prorate System).

D. Revenue from a ticket with an interline fare is nominally attributed to the primary carrier, the carrier undertaking the first leg of the journey, and then distributed amongst other participating carriers using proportions agreed with the Prorate System (IATA Clearing House).

IATA comment

Revenue settlement is undertaken after each flight segment is completed. Under the system each interlining airline accepts the passenger and his or her baggage, without question, in the knowledge that the airline will subsequently be paid for the segment by application of the industry wide standards and rules that govern interlining.

Although much is made in the ACCC Discussion Paper about the perceived cost of IATA fares when compared with market fares, consideration of the sector fares set out in Appendix 1 to this submission demonstrate to the contrary. For instance, the prorated values of a Sydney - London economy fare for the sector from Kuala Lumpur to Bangkok is $273 and for the sector from Geneva to Brussels is $194. These compare with online fares of $341 (MYR771) for Kuala Lumpur to Bangkok and $989 (CHF961) for Geneva to Brussels.
It is not likely that the issuing airline would have established a Special Prorate Agreement with the airlines serving these city pairs for such a complex itinerary.

a Fares are exclusive of taxes, fees and charges which also apply. Fares are the lowest one-way fare available in any class. Lower round trip fares may also be available, however these cannot be halved for one-way travel.

Provisions for the Conduct of IATA Traffic Conferences

**IATA’s conference structure**

3.6 The conduct of IATA conferences is subject to the Provisions for the Conduct of IATA Traffic Conferences² (the Conduct Provisions) which are specified in the IATA Handbook (Part 1). IATA conferences are described as autonomous groups where airline representatives discuss and develop commercial and traffic standards from the perspective of their own carrier interests. IATA submits that the Conferences facilitate international interline air transportation through resolutions, industry standards and recommended practices. They also develop resolutions on international fares and rates which underpin the interlining system.

3.7 There are three passenger and three cargo conferences classified by IATA into groups as follows:

*Passenger procedures conferences*
- Passenger services conference
- Passenger agency conference

*Cargo procedures conferences*
- Cargo services conference
- Cargo agency conference

*Tariff coordinating conferences*
- Passenger tariff coordinating conferences (different conferences for different regions)
- Cargo tariff coordinating conferences (different conferences for different regions)

3.8 There is also a Schedule Coordination Conference.

**IATA comment**

The IATA system, for which re-authorisation has been sought, comprises a range of elements, some of which have been referred to above. In addition there is the Clearing House (see IATA’s submission dated 16 June 2003) and Prorate Agency (see IATA’s submission dated 13 October 2003).

Scheduling is handled by the IATA Schedules Conferences (see IATA’s submission 14 April 2003).

---

² This summary of the Provisions for the Conduct of the IATA Traffic Conferences is derived from the IATA Handbook, Part 1, July 1999.
### Participation

3.9 Under the Conduct Provisions only Active Members (international airlines) may vote at conferences. Associate Members (domestic airlines) may attend but not vote. The aims, objectives and purposes of the traffic conferences are to be those of IATA as a whole. Each conference must meet at least once every two years.

3.10 Attendance at conferences by observers is by invitation only. Specific provisions are made for invitations to be made to nominated governmental organisations such as the International Civil Aviation Organisation (ICAO) and any Government formally expressing a requirement to attend.

3.11 The Conduct Provisions allow for any person to be invited to Passenger Services or Cargo Services Conferences. There are no provisions for the attendance of observers at Cargo Agency Conferences other than governmental representatives.

---

### IATA comment

The relevance of this paragraph to meetings of the IATA Tariff Coordinating Conferences is not apparent, but those meetings are open to government observers.

As explained in IATA's response to this same statement in ACCC Discussion Paper A90855/2, third parties can make submissions to and/or address meetings on any matter pending before the IATA Cargo Agency Conference, and there is also an IATA/FIATA Consultative Council which reports directly to the Cargo Agency Conference making recommendations on any issues affecting the airline/agent relationship.

---

### Input from Third Parties

3.12 Under the Conduct Provisions any person may:

(i) receive copies of the agenda of any Traffic Conference;

(ii) submit a specific written proposal, on any subject or matter pending before the Conference;

(iii) seek to make an oral presentation in support of a written submission, subject to the approval of the Chairman and Secretary of the Conference.

---

### Traffic Conference voting

3.13 The only action at a conference which is binding upon members is a resolution. Resolutions may only be passed at procedures conferences by the unanimous affirmation of all members present. While resolutions at tariff coordination conferences also generally require unanimous agreement, there are provisions taking into account regions of operation of members.

3.14 In Passenger and Cargo Services Conferences industry standards may be adopted by an 80% majority of members. An industry standard sets forth procedures where uniformity is considered necessary for say interline service, but for practical reasons not all carriers follow the procedures. Cargo Agency Conferences are not able to adopt industry standards.
IATA comment

The relevance of this paragraph to meetings of the IATA Tariff Coordinating Conferences is not apparent, but for the record voting rules for meetings of Tariff Coordinating Conferences are set out at paragraphs 14.28-14.30 of the IATA Tariff Coordinating Conferences & Interlining submission dated 24 May 2004 ('IATA's original submission').

3.15 Passenger and Cargo Services Conferences may similarly adopt recommended practices, by a two-thirds majority. A recommended practice sets forth procedures which will, for example, facilitate interlining, but uniformity is not considered essential. Cargo Agency Conferences are not able to adopt recommended practices.

IATA comment

See IATA comment to para 3.14 above.

IATA Passenger Tariff Coordination

Organisation of Passenger Tariff Coordinating Conferences

3.16 The Provisions for the Conduct of IATA Traffic Conferences state that:

'Subject as hereinafter provided each Passenger Tariff Coordinating Conference shall concern itself with the analysis of relevant operating costs and take action to develop passenger fares and related conditions in respect of the area of authority of such Conference.'

IATA comment

In the past the ‘analysis of relevant operating costs’ referred to in the Provisions for the Conduct of the IATA Tariff Conferences was performed by a Cost Committee established under Section X paragraph 1 of the Provisions. That committee has been suspended for many years.

Very little cost information is shared at a Tariff Coordinating Conference meeting and the information that is shared is generally limited to anecdotal statements such as “due to changes in costs we propose …”.

3.17 There are seven passenger Tariff Coordinating Conferences three of which cover routes wholly within defined IATA Areas with the other four covering routes between the Areas.

3.18 The seven passenger conferences are:

- TC1 (Tariff Conference 1) which has authority for passenger traffic within Area 1 which broadly embraces the North and South American continents;
- TC2 (Tariff Conference 2) which has authority for passenger traffic within Area 2 which broadly embraces Europe, the African continent and part of Asia extending to Iran;
- TC3 (Tariff Conference 3) which has authority for passenger traffic within Area 3 which broadly embraces Asia and Australasia;
- TC12 which has authority for traffic between Areas 1 and 2;
• TC23 which has authority for traffic between Areas 2 and 3;
• TC31 which has authority for traffic between Areas 3 and 1;
• TC123 which has authority for traffic between Area 1 and Area 3 via Area 2.

3.19  A joint meeting of all the IATA Passenger Tariff Coordinating Conferences, referred to as the Composite Tariff Coordination Conference, is held annually. The Provisions for the Conduct of the IATA Traffic Conferences state:

'A Composite meeting of Passenger Tariff Conferences shall take action on those matters and practices relating to fare construction and currency rules (other than those which by their own terms are applicable only to one Passenger Tariff Conference), conditions of service, baggage allowance and charges, remuneration levels of recognised passenger sales intermediaries, and such other matters as may be referred to it by any Passenger Tariff Conference.'

IATA comment

In order to be precise, there is no Composite Tariff Coordination Conference. There is, however, an annual composite meeting of the Passenger Tariff Coordinating Conferences (and an equivalent two yearly meeting for the Cargo Tariff Coordinating Conferences) at which resolutions are adopted that set standards for interlining purposes in relation to matters such as fare terms and conditions: see IATA's original submission paragraph 14.26.

There are no extant resolutions dealing with 'remuneration levels for recognised passenger sales intermediaries'.

Tariff Conference participation

3.20  Any IATA member can participate in Tariff Coordinating Conferences but only those that operate international services are entitled to vote. IATA has advised that 136 out of the 270 IATA members have decided to participate in Tariff Coordination (22 of the non-participants are domestic operators only and not eligible to vote).

IATA comment

There are now 131 out of the 265 IATA member airlines that have elected to participate in Tariff Coordination. Of the non-participants 15 are domestic operators only and not eligible to vote.

Although associate members are not entitled to vote at meetings of Tariff Conferences they are entitled to attend meetings and participate in the discussions. For instance, in the Australian context Ansett and TAA were associate members, when operating only domestic services. Both elected to participate.

3.21  IATA members operating international services to and from Australia who do not participate include the substantial airlines Asiana Airlines and Emirates and the smaller regional airlines Air Mauritius, Air Pacific, Air Vanuatu, and Polynesian Airlines. Qantas has advised the ACCC that it only attends conferences when it is of benefit to the airline. IATA has noted that small regional operators may not be able or willing to extend the resources necessary to participate in Conferences.
IATA comment

The statement attributed to Qantas appears to have been taken out of context and may have been misunderstood. According to the ACCC's record of interview, Qantas' general counsel, when asked a question by the ACCC representative about 'the reasons for IATA continuing holding tariff conferences' gave a response which appears to indicate that he could not speak for IATA or other airlines.

His comment was, understandably, that 'Qantas does not attend all tariff conferences. Qantas only attends those conferences where it is of benefit to the airline.'

IATA notes that in a letter to the ACCC dated 27 October 2005 Qantas clarified the position in relation to its attendance at meetings of IATA Tariff Coordinating Conferences. Qantas has confirmed that it attends meetings where the benefit to it outweighs the cost, and expects to continue to do so.

There would be little benefit, for example, for an airline based in the Asia Pacific region in attending a within Africa meeting.

3.22 There are four international airlines operating to and from Australia which are not IATA members and cannot therefore attend IATA Tariff Coordination Conferences being Air Nauru, Air Paradise International, Hawaiian Airlines and Pacific Blue.

3.23 Airlines operating 3rd and 4th freedom\(^3\) and 5th freedom\(^4\) services within a Conference area or sub-area are eligible to vote on resolutions for all routes in the areas or sub areas, as are airlines operating in areas adjacent to such areas. Under the IATA rules it is not necessary for any airline to be operating on a route for it to be able to vote on fare or condition resolutions relating to the route.

IATA comment

This statement on the IATA Tariff Coordinating Conferences voting rules is not correct.

Voting rights are assigned on a Conference area basis only. They are not assigned on a sub-area basis. If an airline operates 3rd/4th freedom services within a particular Conference Area, it automatically has a vote in the corresponding Conferences. This voting entitlement covers all resolutions of those Conferences, including resolutions that might apply only in sub-areas where that airline does not operate. For example, as explained in IATA's Response to the ACCC's Informal Questions dated 16 March 2005 at para 6.1, as Qantas operates 3rd and 4th freedom services in Conference Area 3 it has a vote on all TC3 resolutions. Qantas' entitlement to vote on all resolutions of TC3 includes those resolutions that apply only in sub-areas where Qantas does not operate, such as within the South Asian Subcontinent or between Japan and Korea.\(^a\)

\(^a\) Where the negative vote of an airline that does not operate in a particular sub-area would otherwise defeat a resolution supported by all the voting airlines that do operate in that sub-areas, then in the resolution can nevertheless be adopted even though it does not comply with the usual unanimity requirement. This exception can only be used where the vote of the voting airlines operating in the sub-area is unanimous and less the higher of 20% or a total of five of all other voting airlines present vote against the resolution.

\(^3\) The term 3rd and 4th freedom services relates to services provided between two countries by airlines of those two countries.
\(^4\) A 5th freedom service is a service between two countries by an airline which is not an airline of either country, e.g. Qantas operates 5th freedom services between Singapore and London.
Organisational structure of Passenger Tariff Coordinating Conferences

3.24 The organisational structure of Passenger Tariff Coordinating Conferences appears at Diagram 3.1 below.

3.25 The Resolution Advisory panel consist of members of representatives from member airlines and meets twice a year. The Panel can suggest changes to existing resolutions and procedures for applying fares and rules.

Diagram 3.1 Tariff Coordinating Conferences organisational structure

3.26 The role of the Passenger Tariff Conference Steering Group is to assist the secretariat of the Passenger Tariff Coordinating Conferences and review and make recommendations to the Conferences on policy. Recommendation of the Panel are reviewed by the Steering Group.

Fare and condition resolutions

3.27 Tariff Coordinating Conferences adopt specific fares for individual city pairs in each sub-area and determine the conditions to apply to those fares. Fares fall into two categories, normal fares and special fares. Composite Tariff Coordination Conference Resolutions 100 and 101 contain standard conditions for special and normal fares respectively. These conditions are applicable to IATA fares if there are no specific conditions contained in resolutions applying to fares agreed on individual routes. Fare conditions cover aspects such as seasonality, stay requirements and penalties for cancellations or no shows.

3.28 IATA describes a normal fare as one to which the standard fare conditions set out in Resolution 101 apply. The fare conditions in Resolution 101 provide for a high level of flexibility. For example they are not subject to seasonality, have no maximum/minimum stay or stopover limitations and unlimited transfers between airlines are allowed. The fully flexible IATA fares with codes P and F (first Class), J and C (Business Class) and Y (Economy Class) would generally be regarded as normal fares.
IATA comment

The standard fare conditions for normal fares set out in Resolution 101 provide the default position. These conditions only apply if there is no specific provision contained in a fare resolution. As a result, although the standard fare conditions in Resolution 101 do not contain any seasonal periods, a specific fare resolution can provide for a fare to be subject to seasonality.

In addition, while it is true that the standard normal fare conditions permit unlimited transfers, this is of course subject to the mileage rule. This is the rule that allows a passenger travelling on an IATA fare to travel without surcharge on any routing he or she chooses provided that it is not more than 120% of the shortest operated distance between origin and destination: see IATA's original submission at paragraphs 16.8-16.11.

3.29 A special fare is one to which the fare conditions contained in Resolution 100 apply. The standard conditions for special fares set out in Resolution 100 are generally more restrictive than those for normal fares set out in Resolution 101. For example standard normal fare conditions provide for unlimited stopovers while the standard special fare conditions do not permit any stopovers. The special fare conditions apply to discount fares such as advance purchase excursion (APEX) fares and instant purchase excursion (PEX) fares.

IATA comment

The standard conditions for special fares set out in Resolution 100 provide that 'unlimited transfers', but not stopovers, are permitted. As with Resolution 101 and IATA normal fares explained at IATA comment to paragraph 3.28 above, the standard conditions for IATA special fares provide the default position. The standard conditions apply unless there is a more specific provision set out in a special fare resolution. As an example the one way excursion fare from Australia to Europe (Resolution 071ii) has a more specific rule than Resolution 100, and provides:

9) Transfers
1) one international-domestic permitted in Australia,
2) one international-domestic permitted in Europe,
3) two international permitted, only one of which may be an interline transfer and only one of which permitted in Africa,
4) Scandinavia is considered as one country.

For instance, an itinerary of Canberra - QF - Melbourne - SQ - Singapore - LH - Frankfurt - LH - London - BA - Glasgow involving three interline transfers would be permitted by the Rule. All other special fares between Australia and Europe have similar transfer provisions.

In TC3 Resolutions at least one (either online or interline) transfer is permitted on all special fares to/from Australia.

The term 'Transfer' is defined in Resolution 012 and envisions both online and interline transfers. There are, of course, some IATA special fares to/from Australia (only on the trans-Pacific routes to/from North America) which limit enroute 'interline' transfers however interline transfers are always permitted at the point of turnaround. For example on routings Sydney - QF - Los Angeles - NZ - Auckland - NZ - Sydney, or Sydney - QF - Los Angeles - UA - Sydney: see para 1 of Resolution 040b.

Of course, IATA fare rules are not binding on an airline and therefore no airline is obliged to allow interlining on special fares which it sells. That is a matter of individual choice. However, signatories to the MITA should accept a booking/ticket from another airline if/when they sold a ticket in accordance with IATA rules.

As far as stopovers are concerned, Resolution 100 provides a default mechanism under which stopovers on the way to or from the destination is not permitted. However, the specific conditions of any particular special fare will override this default. Even where stopovers are not permitted, an interline transfer may still be permitted at the turnaround point and at an intermediate connecting point subject to the transfer provisions of that fare.
Fare and conditions example

3.30 TC23/TC 123 met on 24 February 2004 and agreed fares and conditions to apply, inter alia, for travel from Sydney to Madrid effective from 1 April 2004. Table 3.1 below shows the fares agreed and references to relevant resolutions for applicable conditions for travel via the eastern Hemisphere (ie not via Pacific/Atlantic).

IATA comment
In keeping with the global nature of meetings of the various Conferences the meeting referred to in this paragraph also established fares for travel via Atlantic Pacific and via Siberia.

Table 3.1 IATA fares for travel from Sydney to Madrid

<table>
<thead>
<tr>
<th>Fare basis*</th>
<th>Direction</th>
<th>Note**</th>
<th>Fare ($Aust)</th>
<th>Resolution</th>
</tr>
</thead>
<tbody>
<tr>
<td>F</td>
<td>One way</td>
<td></td>
<td>10626</td>
<td>055C</td>
</tr>
<tr>
<td>F</td>
<td>Return</td>
<td></td>
<td>16345</td>
<td>055C</td>
</tr>
<tr>
<td>C</td>
<td>One way</td>
<td></td>
<td>8248</td>
<td>045C</td>
</tr>
<tr>
<td>C</td>
<td>Return</td>
<td></td>
<td>12687</td>
<td>045C</td>
</tr>
<tr>
<td>Y</td>
<td>One way</td>
<td></td>
<td>6148</td>
<td>065C</td>
</tr>
<tr>
<td>Y</td>
<td>Return</td>
<td></td>
<td>9454</td>
<td>065C</td>
</tr>
<tr>
<td>MHEE</td>
<td>Return</td>
<td>C010</td>
<td>4013</td>
<td>07100</td>
</tr>
<tr>
<td>MHEE</td>
<td>Return</td>
<td>C021</td>
<td>4264</td>
<td>07100</td>
</tr>
<tr>
<td>MKKE</td>
<td>Return</td>
<td>C010</td>
<td>3764</td>
<td>07100</td>
</tr>
<tr>
<td>MKKE</td>
<td>Return</td>
<td>C021</td>
<td>4013</td>
<td>07100</td>
</tr>
<tr>
<td>WEE</td>
<td>Return</td>
<td>Colo</td>
<td>3513</td>
<td>07100</td>
</tr>
<tr>
<td>WEE</td>
<td>Return</td>
<td>C021</td>
<td>3764</td>
<td>07100</td>
</tr>
<tr>
<td>MLEE</td>
<td>Return</td>
<td>C010</td>
<td>3136</td>
<td>07100</td>
</tr>
<tr>
<td>WEE</td>
<td>Return</td>
<td>C021</td>
<td>3387</td>
<td>07100</td>
</tr>
<tr>
<td>MHOX</td>
<td>One way</td>
<td>C010</td>
<td>2412</td>
<td>07111</td>
</tr>
<tr>
<td>MHOX</td>
<td>One way</td>
<td>C011</td>
<td>2562</td>
<td>07111</td>
</tr>
<tr>
<td>MKOX</td>
<td>One way</td>
<td>C010</td>
<td>2259</td>
<td>07111</td>
</tr>
<tr>
<td>MKOX</td>
<td>One way</td>
<td>C011</td>
<td>2412</td>
<td>07111</td>
</tr>
<tr>
<td>MJOX</td>
<td>One way</td>
<td>C010</td>
<td>2110</td>
<td>07111</td>
</tr>
<tr>
<td>MJOX</td>
<td>One way</td>
<td>C011</td>
<td>2259</td>
<td>07111</td>
</tr>
<tr>
<td>MLOX</td>
<td>One way</td>
<td>C010</td>
<td>1884</td>
<td>07111</td>
</tr>
<tr>
<td>MLOX</td>
<td>One way</td>
<td>C011</td>
<td>2034</td>
<td>07111</td>
</tr>
</tbody>
</table>

* F is First Class, C is Intermediate (business) Class, Y is Economy Class and M... is Excursion (economy) Class. **C010 means routing via Africa not permitted, C011 means routing via Africa permitted and C021 means travel via Africa permitted in one direction only.

3.31 The F, C and Y Class fares are fully flexible normal fares with little variation from the standard normal fare conditions in Resolution 001b

IATA comment
The relevant resolution is Resolution 101 not 001b

3.32 The excursion fares with codes prefixed with M are economy class fares and subject to special fare conditions appearing in Resolutions 0700 and 0711. The main non standard special fare conditions appear to relate to stopovers, transfer and seasonality. One stopover is permitted en route. One international - domestic transfer is permitted in each of Australia and Europe, eg Brisbane - Sydney and Madrid - Barcelona. Two international transfers are permitted only one
of which may be an interline transfer. The M excursion class fare structure recognises different fare levels for each of four seasonal groupings, viz.

### IATA comment

The relevant resolutions are Resolution 071oo not 07OO and Resolution 071ii not 07II.

<table>
<thead>
<tr>
<th>Season</th>
<th>Start</th>
<th>End</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peak</td>
<td>28 May - 15 Aug</td>
<td>H</td>
</tr>
<tr>
<td></td>
<td>03 Dec 24 - Dec</td>
<td>H</td>
</tr>
<tr>
<td>Shoulder 1</td>
<td>25 Mar - 27 May</td>
<td>K</td>
</tr>
<tr>
<td></td>
<td>16 Aug - 19 Sep</td>
<td>K</td>
</tr>
<tr>
<td></td>
<td>26 Nov - 02 Dec</td>
<td>K</td>
</tr>
<tr>
<td></td>
<td>25 Dec - 02 Jan</td>
<td>K</td>
</tr>
<tr>
<td>Shoulder 2</td>
<td>03 Jan - 16 Jan</td>
<td>J</td>
</tr>
<tr>
<td></td>
<td>25 Feb - 24 Mar</td>
<td>J</td>
</tr>
<tr>
<td></td>
<td>20 Sep - 03 Oct</td>
<td>J</td>
</tr>
<tr>
<td></td>
<td>12 Nov - 25 Nov</td>
<td>J</td>
</tr>
<tr>
<td>Basic</td>
<td>17 Jan - 24 Feb</td>
<td>L</td>
</tr>
<tr>
<td></td>
<td>04 Oct - 11 Nov</td>
<td>L</td>
</tr>
</tbody>
</table>

All of the F, C and Y Class fares in Table 3.1 would enable travellers to fly between Sydney and Madrid on their choice of routing on any airline or combination of airlines provided the routing is reasonably direct. The fare rules stipulate that 'reasonably direct' means not more than 120% of the shortest operated distance between the passengers' origin and destination.

### Fare add-ons

3.34 IATA notes that while IATA interline fares have been established for a 'vast number of city pairs', they do not cover all possible origin/destination combinations.

3.35 IATA Tariff Coordinating Conferences also make resolutions creating add-on amounts which can be added to existing IATA point to point fares.

3.36 IATA cites the example of travel from Sydney to Munich for which there is no specific IATA fare. A Sydney to Munich fare can be constructed by adding the add-on amount for Frankfurt to Munich to the existing fare for Sydney to Frankfurt.

### IATA comment

Paras 3.34-6 indicates that there may be a misunderstanding about 'add-ons'. While referred to as add-ons the fares concerned are merely a mechanism for simplifying the Conference and tariff publication process. This is achieved by development of fare differentials that apply for secondary cities over the fares to/from a national gateway. Often the Conference will decide to have the same fare apply to/from a number of cities and, to simplify negotiation and publishing, will agree to have one of these cities as a specified point and the remainder as zero add-on over the specified city. A constructed fare has same qualities as any other IATA fare.
For example, the cities of Adelaide, Melbourne, Sydney and Brisbane are commonrated to/from Europe. The IATA specified fares tables show an amount only for Sydney with zero add-ons published for the other cities.

A similar commonration occurs on the west coast of the USA where fares to/from San Francisco are commonrated with fares to/from Los Angeles by virtue of nil add-ons. For all other US points each commercial airport has an add-on over the west coast gateway allowing IATA interline fares to be constructed to hundreds of US cities.

Airlines can achieve significant fare publishing and distribution cost savings by using add-ons rather than specifying every fare. In simple terms the commonration of Adelaide, Melbourne and Brisbane with Sydney using add-ons on routes to/from Europe would allow an airline to save three quarters of the costs of publishing and distributing these fares.

Baggage

3.37 Rules for the acceptance of checked and carry on baggage for interline journeys are determined by the Composite Passenger Tariff Coordination Conference. There are two baggage standards: a weight system which applies in most parts of the world, including Australia and a piece system which applies to and from Canada and the United States (and a few other markets).

IATA comment

The standard referred to in this paragraph is, as paragraph 3.37 notes, a standard for interline baggage. Each airline makes its own decision about what baggage standards it might require and how it might apply the standard it chooses, but if there is an interline journey the relevant IATA baggage standard applies.

The IATA standard provides the commercial basis for a passenger to check baggage at the port of origin and collect it at the final destination no matter how many airlines are involved in the interline transaction.

As the AFTA letter to the ACCC dated 13 October 2005 notes, actual charging for excess baggage and the rates which are applied varies between airlines.

3.38 The Composite Conference also establishes charges for excess baggage. The charge from Australia is 1% of the highest normal direct economy fare per kilogram except to other countries in the South Pacific where it is 1.5%.

IATA comment

The excess baggage charges referred to have been established under Resolution 300, at a composite meeting of the IATA Tariff Conferences, but for interline journeys only.

The rate established by that resolution applies to excess baggage for interline purposes for passengers travelling to destinations other than the Americas. For destinations in the Americas, the piece system outlined in para 3.37 above applies and excess baggage charges for interline purposes are set out in resolutions of TC31 Conference.

Airlines have adopted different excess baggage rules for their own online services, based on conditions such as their operating equipment, the configuration of their aircraft, weight restrictions etc.
**Application of IATA fares**

3.39 IATA has submitted that no IATA Conference member is under any compulsion to charge the fares or rates established within IATA Tariff Coordinating Conferences. Each airline is free to apply whatever fare condition, standard or procedure it wishes, subject only to any applicable government requirements. However if a Conference member issues an interlineable ticket using the Conference resolution, other members will accept that document.

**IATA comment**

In this and other paragraphs of the ACCC Discussion Paper the terminology 'IATA submits' is used. This may just be a matter of phraseology, but in case it is not, IATA points out that the statement that airlines are under no compulsion to charge the fares or rates established within IATA Tariff Coordinating Conferences is a statement of fact. It is not an assertion.

The statement that '[i]f a Conference member issues an interlineable ticket using the Conference resolution, other members will accept that document' is not accurate. It is the IATA Multilateral Interline Traffic Agreements (or MITA), that establish the criteria for interlining. The MITA require participating airlines to accept each other’s tickets or air waybills, thereby giving rise to the obligation to interline. By signing the MITA, airlines agree to accept each other’s tickets, transport each other’s passengers and their baggage, and deliver through checked baggage to each other: see IATA’s original submission at para 11.10. The MITA are established under the IATA Service Conferences: see IATA’s Passenger Services submission dated 16 September 2003 at paragraphs 14.7-14.14 and IATA’s Cargo Services submission dated 21 October 2004 at paragraphs 16.7-16.11.

4. **PASSENGER TARIFF COORDINATION AND INTERLINING**

4.1 IATA describes interlining as a system which enables a passenger to travel on multiple airlines on a single ticket bought in a single transaction, using a single currency, and to change flights, airlines or routings before and during the journey. Under the system baggage is checked from the first flight sector through to any intermediate stopover point or final destination regardless of the number of transfers and connecting flights involved.

**Flexibility**

4.2 With an IATA interline ticket it is possible for passengers to choose from a number of different routes to complete a journey. It is also possible for the passenger to change travel arrangements during the journey if the need arises. IATA cites an example of a passenger travelling from Sydney to Paris with a stop in Singapore (see Diagram 4.1 below).

**Diagram 4.1 . Sydney - Paris Routings**

![Diagram of Sydney - Paris Routings](image-url)
Section 3 – IATA Annotated ACCC Discussion Paper A90855/3

4.3 IATA submits in support of the flexibility of IATA interlining that a passenger using an IATA interline ticket could:

- travel from Sydney to Singapore with Qantas or Emirates
- change to Lufthansa or Singapore Airlines for the Singapore/Frankfurt leg
- change to Air France for the Frankfurt to Paris sector
- use Air France or Singapore Airlines from Paris to Singapore
- fly with Singapore Airlines or Qantas to Sydney.

IATA comment

In this and other paragraphs of the ACCC Discussion Paper the terminology 'IATA submits' is used. This may just be a matter of phraseology, but in case it is not, IATA points out that the subject matter dealt with in this and following paragraphs are facts provided by IATA to the ACCC. They are not assertions.

The distinction between fact and submissions made on the basis of those facts should be clear but if the ACCC would find it helpful for IATA to identify those parts of its original submission that are assertions rather than fact IATA would be pleased to assist by doing so.

IATA comment

The above list is only a minor representation of the many stopover and/or transit alternatives a passenger can choose from in undertaking a journey between Sydney and Paris.

A more extensive list of alternatives is set out in Appendix 1 to this submission, but it is still not exhaustive.

4.4 Further if a passenger who bought an interlineable ticket from Australia to Paris via Singapore found on arrival in Paris that he or she had to go to Frankfurt, the ticket could be changed to allow that to occur using different airlines from those originally booked.

4.5 IATA submits moreover that if a passenger with an interline ticket finds a more convenient ticket on a booked sector or a flight is missed through a meeting running late, a change to another airline can be made at the airport.

IATA comment

These paragraphs summarise one of the examples IATA provided in its original submission. That example demonstrated, in quite simple terms, the flexibility and insurance benefit which millions of passengers who elect to buy the IATA multilateral interline product each year obtain when doing so.

Some practical examples may also assist the ACCC in further appreciating the point that flexibility provided by tickets that allow IATA multilateral interlining is of significant value and that tickets with limited rights will not suit everyone.
The examples below are drawn from real experiences. They are illustrative of real life experiences travellers have every day. They are used, not to suggest that every passenger should buy a flexible IATA fare, but to illustrate that there is a need for such tickets. Contrary to the views in the ACCC Discussion Paper they are purchased every day.

The examples also illustrate the point that although a restricted ticket is often cheaper up front, it will contain what has been described by one consolidator as ‘an armful of restrictions’ with the result that it would be better for a traveller who may need to make changes to his or her itinerary to purchase a flexible IATA ticket and have the option to make changes where necessary. Also, the lowest priced market fares often have a relatively short validity period, may only be available for travel on particular days, at particular times of the day, on particular flights and/or for purchase by a particular date.

Example 1

A passenger was suffering a toothache and wished to return home as soon as possible. This passenger was travelling on a non refundable ticket with the return leg booked via an intermediate city. The passenger wanted to change the return leg to travel on the most direct route available. In this situation, the passenger had to purchase a brand new ticket and could not obtain any refund on the original ticket. The passenger had to pay almost half of what the original fare was again for the new ticket.

Example 2

A passenger on holiday in Europe in summer was travelling from Split in Croatia to Athens. There is no direct service between Split and Athens. He purchased two tickets - a ticket on Croatian Airlines from Split to Rome and a second ticket on Aegean from Rome to Athens. There was a four-hour delay on the Croatian Airlines flight which meant that he missed his connection in Rome to Aegean. He was unable to get a seat on another Aegean flight to Athens as Aegean's flights for the rest of the season were all full. The passenger incurred accommodation costs for two nights in Rome plus the cost of a third ticket from Rome to Athens on Alitalia. Aegean was not represented at the airport so he also had to travel into Rome to talk to airline staff.

Example 3

A passenger was booked to travel from Amsterdam to Manchester and needed to change his itinerary to instead travel from Amsterdam to Vienna and then on to Split (Croatia) to accommodate changes in business plans. The airline on which the passenger was booked to travel did not serve these destinations. As he had not purchased an IATA flexible interline ticket the passenger had no choice but to purchase a new ticket with a different airline for this part of the journey.

Example 4

A passenger travelling Sydney-Bangkok-Sydney on a non-refundable D (restricted business) class ticket travelled to Bangkok but then needed to change the date of the return travel. There were no D class seats available on the flight the passenger needed. The only fare available was a published J (unrestricted business) class fare. In order to obtain the available J class seat, given the conditions applicable to the type of ticket he had purchased, the passenger would have been required to upgrade the fare for his entire itinerary to J class. This would have meant an increase from the $7,000 fare originally paid to a fare of $12,000. The choice was to wait in Bangkok for the flight on which he was originally booked, pay the increased fare or buy a new one-way ticket from Bangkok to Sydney.

Example 5

A passenger purchased an IATA fare for travel Sydney -Bangkok - Vientiane - Hanoi - Sydney involving the services of Qantas, Thai International, Vietnam Airlines and Singapore Airlines. The passenger's travel plans changed mid-journey so that after he travelled Sydney - Bangkok - Vientiane he travelled to Hong Kong by other means and then changed his itinerary to fly direct from Hong Kong back to Sydney. As he was travelling on an IATA fare, he was able to change his itinerary without difficulty and there were no penalties apart from a $50 administrative fee charged by Thai International.

Example 6
A passenger intending to travel Sydney - London - New York - Sydney on business purchased an IATA fare for the journey. It was quite likely that the passenger would end up travelling the London - New York leg on a private plane and as a result the passenger wished to purchase a fare that would permit an individual sector of the itinerary to be cancelled and fully refunded.

Accessing off line destinations

4.6 Apart from the flexibility factor IATA points to the value of interline tickets in enabling passengers to travel to or from many destinations in the world not served by the flights of any one airline. IATA submits that the only way to travel seamlessly to and from destinations not served by any one airline, alliance or code share is by utilising the IATA Interline system.

4.7 IATA cites an example of a passenger wishing to fly from Canberra to Chang Mai in Thailand. The passenger has the opportunity of purchasing an IATA interline fare on a single ticket paid for in a single currency and accepted by both Qantas and Thai Airways International. Because an interline ticket is used on the outward leg Thai will be made aware that the passenger is interlining by electronic signal from Qantas, making transfer between airlines easy, and baggage will be automatically transferred at Bangkok.

4.8 IATA submits that without interlining the passenger would be obliged to buy tickets individually from Qantas and Thai in two separate non-connected bookings. The two flights would not be computer linked. The passenger would have to collect and transfer his or her own baggage at intermediate points and a missed flight on the second sector (Sydney to Bangkok) would be indistinguishable from a 'no show'.

IATA comment

The acceptance of connecting baggage presents both liability and cost issues for the airlines concerned. For passengers travelling at an agreed through fare issued on a single ticket the processes established in the IATA Traffic Conferences provide that the airlines will transfer baggage at connecting points. The MITA agreement also establishes that, in the event of an irregularity, the passenger needs only deal with one airline.

In an effort to reduce costs some airlines have introduced policies whereby they will decline to accept connection baggage from passengers holding separate tickets. For example bmi states on their website:

new through check-in policy

If you have booked connecting journeys using separate tickets, we no longer offer the facility of through check-in or through tagging of baggage. Only passengers with flight itineraries issued on a single ticket with one booking reference will qualify for the through check-in service, subject to minimum connection times. This policy applies to all connecting flights (bmi to bmi, bmi to other carriers and all codeshare flights). Passengers choosing to purchase separate tickets should allow sufficient time to collect any baggage and check-in again for onward flights. Our decision to amend this policy has been driven by the desire to continue interline flights whilst recognizing the cost of providing these services.”


Multilateral Interline Agreements

4.9 The IATA Multilateral Interline Traffic Agreements are separately examined in the ACCC's discussion paper on the IATA Passenger Services Conference. The Agreements provide that each of the participating airlines must use, for handling and carriage of interline passengers, the
forms and procedures set out in applicable IATA resolutions and recommended practices. In this way standardised procedures and documents are established for the purposes of interlining.

**IATA comment**

IATA has lodged separate submissions in relation to each element of the system in accordance with its agreement with the ACCC, given the size and breadth of this application. However, each element is just that; an element of a total, integrated system for which one authorisation has been sought.

4.10 The agreements establish the criteria for interlining and require participating airlines to accept each other's tickets, giving rise to the obligation to interline. The IATA Multilateral Interline Traffic Agreements are managed by IATA but are open to any airline operating scheduled air services whether an IATA member or not.

**Multilateral Prorate Agreements**

4.11 The IATA Prorate System is examined in a separate ACCC discussion paper. IATA states that the objective of the system is to provide an efficient multilateral basis for sharing interline revenue in a commercially acceptable manner for the greatest proportion of interline traffic on the route concerned. Airlines are free to decide whether they will participate in the system or not.

**IATA comment**

IATA has lodged separate submissions in relation to each element of the system in accordance with its agreement with the ACCC, given the size and breadth of this application. However, each element is just that; an element of a total, integrated system for which one authorisation has been sought.

4.12 The Multilateral Prorate Agreement Passengers sets out a methodology for sharing revenue for interline journeys based on mileage flown.

**5. BACKGROUND TO THE APPLICATION**

**Bilateral Air Services Agreements**

5.1 The exercise of traffic rights by commercial airlines between any two countries is governed by treaties entitled Air Services Agreements (ASAs) negotiated bilaterally between the two countries.

5.2 In relation to routes between the two countries an ASA typically specifies:

- the airlines permitted (designated) to operate;
- the cities that can be served;
- the freedoms to pick up or discharge passengers in each other's country (3rd and 4th freedoms) or to fly them to points in third countries (5th and 6th freedoms);
- the capacity permitted to be operated (e.g. in terms of seats and/or flights); and
- the extent to which cooperative arrangements such as code sharing are allowed.
5.3 According to IATA, sovereign States have been negotiating ASAs since 1945. ASAs are the product of bilateral negotiations and given divergences in the policy priorities of the countries concerned over this period there have evolved considerable differences in ASAs applying between different country pairs.

IATA comment

The words 'according to IATA' suggest that the statement is not a statement of fact. This may just be a matter of phraseology, but for the avoidance of doubt, it is a fact that 'sovereign States have been negotiating ASAs since 1945 and that ASAs are the product of bilateral negotiations and given divergences in the policy priorities of the countries concerned over this period there have evolved considerable differences in ASAs applying between different country pairs.'

5.4 Early versions of ASAs, such as the Bermuda Agreement between the United Kingdom and the United States, included provisions regulating the fares airlines were permitted to charge. A priority for many governments of those days was to ensure the viability of the newly developing international air transport industry and in many cases national airlines were government owned. The determination of fares through IATA Tariff Coordination Conferences and the filing of fares for government approval was a feature of most ASAs of the time.

5.5 More recently there has been a trend toward liberalisation of the international aviation regulatory regime with the most liberal ASAs, the so called 'open skies' agreements, removing most restrictions relating to capacity, routes, and beyond rights. Another feature of the more liberal ASAs is that they see fares as market driven, determined free of IATA tariff machinery and subject to national competition laws.

IATA comment

This paragraph summarises and simplifies a very complex international position, described in greater detail in IATA’s original submission at paragraphs 6.1 - 6.31.

The Australian Department of Transport and Regional Services, in its letter to the ACCC dated 24 November 2004, made a number of important points in relation to Air Services Agreements to which Australia is a party. The Department pointed out that 'if the ACCC did not provide authorisation for tariffs established in IATA tariff coordination conferences … any such tariffs approved by DOTARS … could be found to be unlawful under the Trade Practices Act. If this occurred, Australia would be likely to find itself in dispute with the other Party which could invoke the disputes settlement provision of the relevant ASA. … Disputes of this kind could potentially disrupt commercial operations of Australian airlines as other countries might take retaliatory action if their airlines were not permitted to market a particular fare set under the IATA machinery.’ This statement is of particular importance given the view expressed at paragraph 8.14 of the ACCC Discussion Paper that, absent authorisation tariff coordination for both outbound and inbound fares would be expected to be discontinued.

In its letter dated 13 September 2005 in response to the ACCC Discussion Paper the Australian Department of Transport and Regional Services reinforced the original letter, stating: 'Tariff provisions within Australia’s air service agreements are treaty level obligations that are enforceable under international law.’ This point, made by IATA in its original submission, appears to have been largely overlooked in the ACCC Discussion Paper: see IATA’s original submission, paragraphs 6.1 - 6.31.

IATA comment

The sentence: ‘Another feature of the more liberal ASAs is that they see fares as market driven, determined free of IATA tariff machinery and subject to national competition laws’ is an incorrect general statement of a complex international treaty issue.

Open skies is a concept that originated in the United States as a negotiation strategy and, as the detailed paper contained in Volume 1 Tab 12 of the Supporting Materials to IATA’s original
submission explains, was first negotiated successfully with the Netherlands in 1992. Since then the USA has negotiated such agreements with a number of countries, not including Australia.

Article 12 of the US model agreement deals with pricing, but it says nothing about the IATA tariff machinery or about national competition laws. It is silent on both accounts. As the IATA Submission explains, IATA tariff resolutions, including those for fares to and from Australia, are specifically approved by the US Department of Transportation.

ICAO, of which Australia is a founding member, has issued model clauses for air services agreements. The model includes three model clauses on development and approval of tariffs, two of which provide specifically for tariffs to be agreed by the designated airlines after consultation, if applicable, with other airlines: see Volume 1 Tab 3 of the Supporting Materials to IATA's original submission.

International passenger air fares

5.6 Airlines servicing routes to and from Australia are able to offer a range of different fare types to customers in addition to fares and fare types agreed at IATA Tariff Coordinating Conferences.

5.7 At the top end airlines will offer their own flexible fares across the range of cabin classes. Such fares offer conditions similar to those of IATA interlineable fares, such as providing ability to change flights, obtain refunds, etc. but changes in flights are restricted to flights of the ticketed airline or alliance partners of the ticketed airline. These fares are often referred to as published fares.

IATA comment

The statement that airlines 'at the top end' offer 'their own flexible fares' with 'conditions similar to those of IATA interlineable fares' is a gross exaggeration. The fact is that all airlines provide a range of fare offerings, with different conditions attaching to each. However, even the most flexible of those offerings cannot and do not replicate the IATA product.

5.8 A feature of published fares is that the airline determines the price at which the fares are marketed to the public. Travel agents are paid a commission which is derived as percentage of the published fare. IATA fares are also regarded as published fares and are commissionable by travel agents.

IATA comment

When the current authorisation was granted in 1985 IATA tariff resolutions included a provision for a 9% commission to be paid to accredited travel agents. That resolution has been repealed. IATA now takes no role in establishing the rate of commission payable by airlines to their agents: see IATA's original submission paragraph 28.2.

5.9 Table 5.1 below shows a comparison of IATA and Qantas fully flexible fares on the Sydney to London route.

Table 5.1 Fully flexible fares for return travel from Sydney to London (AS)

<table>
<thead>
<tr>
<th>Fare Category</th>
<th>IATA fare</th>
<th>Qantas fare (1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>First class</td>
<td>$16,345</td>
<td>$14,140 (2)</td>
</tr>
<tr>
<td>Business class</td>
<td>$12,687</td>
<td>$9,339 - $9,374 (3)</td>
</tr>
<tr>
<td>Economy Class</td>
<td>$9,454</td>
<td>$2,469 - $2,504 (4)</td>
</tr>
</tbody>
</table>

(1) From Qantas website on 14 December 2004 for travel on 28 February 2005. (2) Changes permitted and full refund for prior cancellation. (3) Changes permitted and refund available for prior cancellation less $200 fee. (4) Changes permitted with possible higher fares for $30 fee and refund available for prior cancellation less $220 fee.
IATA comment

Table 5.1 is misleading because the fares quoted are not comparable fares.

First, the IATA fares are year round, fully interlineable fares, whereas the Qantas economy fares are not year round fares and are not fully interlineable.

Second, the IATA fares are 'last seat availability' fares, whereas the Qantas fares are for a limited numbers of seats in each class.

Third, the IATA fares allows multiple stopovers whereas the Qantas fares do not. As Appendix 1 to this submission demonstrates, a passenger utilising the Sydney-London IATA fare could choose to stopover at up to 15 destinations on the way to or from London, utilising the combined services of almost any airline based in Asia Pacific, Africa, Middle East and/or Europe to select the services most convenient to his or her needs.

The ACCC would make a serious error if it were to base its thinking on the type of analysis behind Table 5.1.

The following table contains a more accurate comparison of the fully flexible IATA fare with the online or limited bilateral flexible Qantas fare on the Sydney - London route, but these fares are also not really comparable because they involve quite different terms and conditions and benefits as noted above.

<table>
<thead>
<tr>
<th>Fare category</th>
<th>IATA fare</th>
<th>IATA fare class</th>
<th>Qantas fare</th>
<th>Qantas fare class</th>
<th>% difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>First</td>
<td>$16,345</td>
<td>F</td>
<td>$14,112</td>
<td>F</td>
<td>13.6%</td>
</tr>
<tr>
<td>Business</td>
<td>$12,687</td>
<td>C</td>
<td>$9,047</td>
<td>C</td>
<td>28.7%</td>
</tr>
<tr>
<td>Excursion economy</td>
<td>$3,136 - $4,013</td>
<td>MEE</td>
<td>$2,060-$3,390</td>
<td>K and B</td>
<td>15.5% - 34%</td>
</tr>
</tbody>
</table>

Source: Qantas Airways Limited for travel between 1 November 2005 and 31 March 2006. The excursion economy fares used for comparison are Qantas Super Saver and Qantas Flexi Saver fares. Super Saver fares allow date changes without a fee, rerouting is permitted for a $100 fee and cancellation permitted for a $330 fee. Flexi Saver fares permit date changes and rerouting without a fee and are fully refundable.

5.10 Airlines also offer discounted fares to travel agents on a net remit basis. The net remit fare represents the net return expected by the airline from the sale of the fare by a travel agent. The fare is marketed by the agent at a level which incorporates the agent's margin added on to the net remit fare. Table 5.2 below shows restricted discount economy fares on the Sydney to London route.

IATA comment

IATA objects to the use of the term 'discount fares' in this and other parts of the ACCC Discussion Paper. It is incorrect to refer to any of the airline fare offerings as 'discounted fares'. Suppliers in any competitive market offer a range of prices to suit the market and position the supplier's products in that market and airlines are no exception. They offer a range of fares in Australia designed to meet demand. They are merely fares in the marketplace.
### Table 5.2 Discount economy fares for return travel from Sydney to London flying Qantas (AS)

<table>
<thead>
<tr>
<th>Web site of distributor</th>
<th>Fare* (including taxes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Qantas</td>
<td>$2,110 - $2,145</td>
</tr>
<tr>
<td>Flight Centre</td>
<td>$2,041</td>
</tr>
<tr>
<td>Travel.com.au</td>
<td>$2,072</td>
</tr>
</tbody>
</table>

*From websites on 14 December 2004 for travel on 28 February 2005. Taxes are estimated at $223.

**IATA comment**

The fares quoted in this table are a small cross section of the fares available to those who wish to travel on the Sydney - London route. Each fare will have different conditions and limitations, including seat availability limitations. Section 4 of this submission contains a fuller list of fares for sale in Australia for travel between Sydney and London.

It is incorrect to refer to any of the airline fare offerings as 'discounted fares'. They are merely fares in the marketplace.

**International passenger transport by air**

5.11 This section examines the movement of passengers by air transport between Australia and other countries.

**Trends in demand**

5.12 Following steady growth through the 1990s Table 5.3 below shows that demand fell away in 2002 and 2003 as a result of the impact of terrorism events, the war in Iraq and SARS.

5.13 A recovery in demand which commenced in late 2003 has continued into 2004. Statistics produced by DTRS show that the number of passengers carried into and out of Australia in each month from November 2003 to November 2004 was a record for that month. The total number of passengers carried in the twelve months ended November 2004 was 1% higher than for the twelve months ended November 2003. Statistics produced by IATA\(^5\) similarly show that globally, scheduled international air traffic for the first ten months of 2004 was 1% higher than for the first ten months of 2003.

**Table 5.3 Passengers carried on scheduled air services to and from Australia, 1999 to 2003**

<table>
<thead>
<tr>
<th>Year ended 31 December</th>
<th>Number of flights</th>
<th>Number of passengers ('000)</th>
<th>Number of seats available ('000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>80,476</td>
<td>14,987</td>
<td>21,936</td>
</tr>
<tr>
<td>2000</td>
<td>91,188</td>
<td>16,488 (+10.0%)</td>
<td>23,932</td>
</tr>
<tr>
<td>2001</td>
<td>92,045</td>
<td>16,799 (+1.9%)</td>
<td>24,144</td>
</tr>
<tr>
<td>2002</td>
<td>87,422</td>
<td>16,682 (-0.7%)</td>
<td>22,759</td>
</tr>
<tr>
<td>2003</td>
<td>92,168</td>
<td>16,439 (-1.5%)</td>
<td>23,748</td>
</tr>
</tbody>
</table>

*Source: DTRS*

5.14 In 2003 there were 50 airlines operating scheduled services to and from Australia with 6 operating freight only services and 44 operating passenger services. Airlines averaged 886

---

\(^5\) IATA Press Release, Traffic rises as yields continue to fall, 30 November 2004.
departures per week from Australia in 2003 (compared to 175 departures in 1984) and accounted for some 228,000 departing seats per week (compared to 66,000 seats in 1984).

IATA comment
Since 1985, when the current authorisation was granted, passenger arrivals and departures have risen from 8,652,577 (1985) to 19,747,452 (2004). This is an increase of 128%.

*Source:* BTRE International Scheduled Traffic to/from Australia - Uplift/discharge and Transit 1983-2004

Where and why people travel

5.15 Table 5.4 below shows the number of passengers carried by country of origin and destination for selected countries in 2003. The statistics relate to short term visitor arrivals and departures which account for over 95% of traffic to and from Australia.

IATA comment
Table 5.4 does not adequately show the diverse range of locations passengers from Australia travel to, nor does it show the diverse range of countries from which they come to Australia.

The implicit assumption based on that table is that passengers to and from Australia all travel to or from locations served by online services or by alliances.

The fact is that people travel between Australia and almost every country in the world. Many of those countries can only be accessed through a combination of airlines that, like passengers using Thai International for flights to many points in Europe, rely on the IATA system directly or indirectly.

Table 8A in Section 8 of this submission shows a selection of the diverse range of countries people travel to from Australia.

5.16 The countries listed in Table 5.4 account for over 80% of all traffic to and from Australia. Overseas visitors coming to Australia comprised 58% of traffic while Australians residents travelling overseas comprised 42%. The resident to visitor ratio varies significantly between countries. For example, visitor arrivals account for 89% of Japan traffic but only 33% of Indonesia traffic.

Table 5.4 Passenger traffic to and from Australia by selected country, 2003

<table>
<thead>
<tr>
<th>Country of origin or destination</th>
<th>Short term visitor arrivals (No)</th>
<th>Short term resident departures (No)</th>
<th>Total (No)</th>
<th>Total as per cent of all traffic</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>176,128</td>
<td>114,190</td>
<td>290,318</td>
<td>3.6</td>
</tr>
<tr>
<td>Hong Kong</td>
<td>129,255</td>
<td>114,274</td>
<td>243,529</td>
<td>3.0</td>
</tr>
<tr>
<td>India</td>
<td>45,579</td>
<td>54,961</td>
<td>100,540</td>
<td>1.2</td>
</tr>
<tr>
<td>Indonesia</td>
<td>90,239</td>
<td>186,305</td>
<td>276,544</td>
<td>3.4</td>
</tr>
<tr>
<td>Japan</td>
<td>626,914</td>
<td>75,551</td>
<td>702,465</td>
<td>8.7</td>
</tr>
<tr>
<td>Korea, Rep. of</td>
<td>207,266</td>
<td>25,062</td>
<td>232,328</td>
<td>2.9</td>
</tr>
<tr>
<td>Malaysia</td>
<td>155,582</td>
<td>100,840</td>
<td>256,422</td>
<td>3.2</td>
</tr>
<tr>
<td>Philippines</td>
<td>27,018</td>
<td>59,553</td>
<td>86,571</td>
<td>1.1</td>
</tr>
<tr>
<td>Singapore</td>
<td>253,329</td>
<td>123,273</td>
<td>376,602</td>
<td>4.6</td>
</tr>
<tr>
<td>Thailand</td>
<td>73,154</td>
<td>127,891</td>
<td>201,045</td>
<td>2.5</td>
</tr>
<tr>
<td>France</td>
<td>51,261</td>
<td>50,374</td>
<td>101,635</td>
<td>1.3</td>
</tr>
</tbody>
</table>

*Note:* The table includes only countries that account for over 1% of traffic.

*Source:* BTRE International Scheduled Traffic to/from Australia - Uplift/discharge and Transit 1983-2004
<table>
<thead>
<tr>
<th>Country</th>
<th>Outbound Passengers</th>
<th>Inbound Passengers</th>
<th>Interline Passengers</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Germany</td>
<td>136,938</td>
<td>39,575</td>
<td>176,513</td>
<td>2.2</td>
</tr>
<tr>
<td>Italy</td>
<td>70,886</td>
<td>41,265</td>
<td>112,151</td>
<td>1.4</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>669,802</td>
<td>312,683</td>
<td>982,486</td>
<td>12.1</td>
</tr>
<tr>
<td>Canada</td>
<td>86,895</td>
<td>66,527</td>
<td>153,422</td>
<td>1.9</td>
</tr>
<tr>
<td>United States</td>
<td>415,392</td>
<td>296,110</td>
<td>711,502</td>
<td>8.8</td>
</tr>
<tr>
<td>New Zealand</td>
<td>837,317</td>
<td>660,538</td>
<td>1,497,855</td>
<td>18.5</td>
</tr>
<tr>
<td>All countries</td>
<td>4,729,607</td>
<td>3,381,941</td>
<td>8,111,548</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Source: ABS

IATA comment

IATA points out that, in order to obtain a view on the relative importance of IATA interlining from Australia, the likely range of outbound passengers per annum from Australia travelling on IATA interlineable normal fare tickets (explained in Section 8 of this submission) with the above figures.

The result is:

- if only 2.5% of outbound passengers travel on IATA interlineable normal fare tickets that would be equivalent in numbers to all of the short term visitors to Australia in 2003 from India, Thailand, France and Germany combined;
- if 5% of outbound passengers travel on IATA interlineable normal fare tickets then the Philippines, Indonesia and Canada would be added to the list;
- if 10% of outbound passengers travel on IATA interlineable normal fare tickets then Hong Kong, Germany and Singapore would be added to the list;
- if 15% of outbound passengers travel on IATA interlineable normal fare tickets then Korea and China would be added to the list; and
- if 20% of outbound passengers travel on IATA interlineable normal fare tickets then the United States and Malaysia would be added to the list.

IATA believes that the figure is at least 10% and the facts support that view. The reasons for that view are set out in Section 8 of this submission.

IATA comment

IATA points out that a number of conclusions can be drawn from Table 5.4. They are:

- 20% of passengers came from or travelled to countries other than those listed. That accounted, in 2003, for 3,363,000 passengers;
- given that the smallest recorded percentage in 1.1% (86,571 passengers to/from Malaysia), the 20% is made up of small numbers of people travelling to/from a diverse range of countries;
- no destinations in South America, Central America the Caribbean, Africa or the Middle East are listed;
- those countries are less likely to have online services to/from Australia than the countries listed; and
- even with the countries listed, the passengers are unlikely to all travel to/from a gateway city, especially in geographically large countries such as China, the US, Canada, Germany and France.
IATA comment

As the ACCC acknowledges at paragraph 10.86, although the statistics in Table 5.4 are described as relating to the country of origin or destination, for foreign visitors they do not accurately identify the country in which travel actually originated and for Australian travellers they do not accurately identify the passenger's final destination.

In 2004 there were 9,890,611 inbound passengers but 9,707,573 were recorded as discharge passengers in Australia, leaving 183,038 as inbound passengers transiting to another country. Outbound there were 9,856,841 departing passengers of which 9,663,477 were recorded as uplift passengers in Australia, leaving 193,364 as outbound passengers transiting in Australia. (source: BTRE statistics). The transit passengers are, however, only those for Qantas.

Although it cannot be claimed that these passengers travelled on an IATA interlineable ticket (normal or special), the data confirms that every day about 1,000 people transit through Australia on Qantas services alone, even though it is not a central transit point.

As Table 8A in Section 8 of this submission shows, passengers travelling from Australia through transit points such as Hong Kong, Singapore, Malaysia and the US travel to final destinations in over 160 countries, many of which are inaccessible on the one airline or alliance.

Table 5.5 below shows the purpose of travel for passengers travelling to and from Australia in 2003. Business travellers made up 12% of passengers in 2003 (compared to 15% in 1984), 9% of short term visitor arrivals and 16% of short term resident departures.

<table>
<thead>
<tr>
<th>Purpose of travel</th>
<th>Short term visitor arrivals (No)</th>
<th>Short term resident departures (No)</th>
<th>All traffic (No)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business</td>
<td>446,921</td>
<td>554,230</td>
<td>1,001,151</td>
</tr>
<tr>
<td>Convention</td>
<td>142,519</td>
<td>137,651</td>
<td>280,170</td>
</tr>
</tbody>
</table>
### Aviation industry performance

5.19 Table 5.6 below shows the top eleven airlines, in terms of passenger shares, carrying passengers to and from Australia in 2003. Seven of the airlines were assessed by Airline Business in August 2004 as being in the top twenty airlines in the world for profitability in 2003. Of the remaining four airlines, only two, United Airlines and Japan Airlines were not profitable in 2003. JAL has subsequently announced in November 2004 a return to profitability.

5.20 IATA announced in December 2004 that airlines globally were expected to lose over US$4.0 billion in 2004. A major portion of these losses could be expected to come from North American carriers many of whom have been in financial difficulties for some years now. Six North American airlines made a combined loss of US$4.3 billion in 2003.

### Table 5.6  Airline share of passengers on scheduled air services to and from Australia, 2003

<table>
<thead>
<tr>
<th>Airline</th>
<th>Per cent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Qantas</td>
<td>35.1</td>
</tr>
<tr>
<td>Air New Zealand</td>
<td>11.8</td>
</tr>
<tr>
<td>Singapore Airlines</td>
<td>10.7</td>
</tr>
<tr>
<td>Japan Airlines</td>
<td>4.2</td>
</tr>
<tr>
<td>United Airlines</td>
<td>2.3</td>
</tr>
<tr>
<td>Cathay Pacific</td>
<td>3.7</td>
</tr>
<tr>
<td>British Airways</td>
<td>3.3</td>
</tr>
<tr>
<td>Malaysia Airlines</td>
<td>5.4</td>
</tr>
<tr>
<td>Garuda</td>
<td>1.5</td>
</tr>
<tr>
<td>Thai Airways</td>
<td>4.1</td>
</tr>
<tr>
<td>Emirates</td>
<td>3.3</td>
</tr>
<tr>
<td>Other</td>
<td>16.8</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Source: DTRS

IATA comment

For the reasons noted in paragraph 10.86 of the ACCC Discussion Paper below, Table 5.6 does not necessarily show the airline or airlines that carried the passenger to his or her final destination. It only shows the airline that carried the passenger on the first leg out of Australia.

---

7 Traffic Rises as Yields Continue to Fall, IATA Press release No 32, 30 November 2004.
8 United Airlines, Delta, American Airlines, US Airways, ABX Air and Air Canada.
As Table 8A in Section 8 of this submission shows, passengers travelling through transit points such as Hong Kong, Singapore, Malaysia and the US travel to final destinations in over 160 countries, many of which are inaccessible on one airline or alliance.

Airline alliances and special prorate agreements

The development of alliances

5.21 The proliferation of airline alliances has been a feature of the development of the international aviation industry over the last decade. The alliance was an industry response to strong competition, low yields and low profitability and enabled airlines to expand networks and services while controlling costs and increasing productivity.

5.22 The move to alliances occurred subsequent to the granting of authorisation to IATA’s tariff coordination activities by Determination A90435 in 23 December 1985. The first international alliance was formed in 1986 between Air Florida and British Island. In the year 2000 there were approximately 579 alliances in place involving some 220 airlines.

IATA comment

It appears that the ACCC may be confusing different bilateral and plurilateral arrangements between airlines. For example, the Air Florida/British Island arrangement was a code share agreement, not an alliance. It should also be noted that Air Florida went bankrupt, and ceased all operations, in July 1984.

In IATA Passenger Services Conference Recommended Practice 1008 the term alliance is defined as follows:

“Alliance” means: three or more airlines participating in a commercial relationship or joint venture, where
(i) a joint and commonly identifiable product is marketed under a single commercial name or brand; and
(ii) this commercial name or brand is promoted to the public through the airlines participating in the alliance and its agents; and
(iii) the commercial name or brand is used to identify the alliance services at airports and other service delivery points.

There are three major alliances in the industry today:
• oneworld consisting of Aer Lingus, American Airlines, British Airways, Cathay Pacific, Finnair, Iberia Airlines, LAN and Qantas;
• SkyTeam consisting of Aeromexico, Air France, Alitalia, Continental, CSA Czech, Delta Air Lines, KLM, Korean Air and Northwest; and

In paragraphs 5.23-5.24 the ACCC Discussion Paper attempts to distinguish between so-called integrated alliances and marketing alliances, however, it is much more complex than stated. Integrated alliances reflect agreements for which the participants require certain immunity, authorisations or exemption from national competition laws. For example within oneworld Qantas and British Airways have an authorisation granted by the ACCC, but other oneworld members do not have a similar exemption in Australia or elsewhere. Within Star the US authorities have granted separate immunities for Air Canada – United, Air New Zealand – United, and Lufthansa, SAS – United. SAS has separate immunity for their agreements with Icelandair, who are not a member of Star or another alliance.

9 Thae Hoon Oum, Key aspects of Global Strategic Alliances and the Impacts on the Future of Air Canada and other Canadian Air Carriers, Research conducted for the Canada Transportation Act Review, May 2001.
The term 'code share agreement' refers to an agreement negotiated bilaterally between two airlines for the airline operating its own service on a specific route to accept, on that service, passengers of the other airline on the basis that the other airline will market the flight as one of its own, including assigning its carrier specific code to the flight. The agreements are route specific and often specific to a service or group of services on the route. The agreement may be limited to specific classes on the airline. The commercial arrangements under which the airlines agree on a code share differ, but can include sale of a block of seats per agreed flight, a seat exchange arrangement or an open sale arrangement. Pricing arrangements also vary, but most are on a fixed price per seat per class of travel. It is not unusual for a single flight to have multiple codeshares.

One major reason, not mentioned by the ACCC Discussion Paper, for airlines to enter into code share agreements is the priority given in computer reservations system (CRS) schedule and fare displays to online connections over interline connections. Code share flights are displayed as online connections in CRS displays.

The term 'special prorate agreement' or 'SPA' refers to bilateral agreements entered into by two airlines in which one airline will pay another airline a fixed amount, or apply a stated formula, when a specific connecting service is provided. Details of these agreements are not provided to IATA nor disseminated to other parties. One common type of SPA is for two airlines to agree to prorate on a mileage basis under the IATA Multilateral Proration Agreement Passenger but mutually ignore any provisos (provisos are explained at paragraph 11.18 of IATA's Prorate Agency submission dated 13 October 2003) for tickets issued by the other party. SPAs involving more than one airline are very rare. SPAs are explained in further detail at paragraph 3(a) of IATA's 22 April 2005 response to ACCC questions.

In suggesting that there are 579 alliances the ACCC Discussion Paper has misinterpreted Professor Oum's paper. Citing data sourced from Airline Business, Professor Oum stated that:

As of June 2000, there are a total of 579 bilateral partnerships in force among more than 220 airlines.

Clearly Professor Oum was referring only to bilateral arrangements between airlines and not to alliances. For example, if considered from a bilateral perspective, rather than being a single alliance of 16 members the Star Alliance alone would amount to 240 'alliances' (i.e. bilateral partnerships).

5.23 There are effectively two styles of alliance: marketing alliances and integrated alliances. Integrated alliances typically involve a high degree of integration of the airlines concerned, including coordination of fares, schedules, service levels and yield and capacity management. An example of an integrated alliance is the Joint Services Agreement between Qantas and British Airways.

5.24 Marketing alliances offer the consumer the benefits of broader networks, more seamless travel and expanded loyalty programs. However, alliance airlines generally continue to offer their fares, schedules and services independently and airlines within the same marketing alliance may compete with each other on the same route. Examples of marketing alliances include oneworld and the Star Alliance.

5.25 Another form of alliance behaviour which can occur within both integrated alliances and marketing alliances, as well as outside of such alliances, is code sharing. Code sharing involves one airline purchasing and marketing under its own brand name seats on another airline's flights. Code sharing can be used by airlines to extend routes beyond or behind hubs. Qantas for example code shares on British Airways flights to points in Europe beyond Heathrow. In such circumstances, there is little apparent difference for the passenger over interlining.

IATA comment

A code share is not necessarily alliance behaviour. There are code shares within alliances and also between carriers that are significant competitors. For example Qantas, a member of the oneworld alliance, places its code on Star Alliance member Swiss' flights between Singapore and Zurich.
5.26 Code shares are also used on thin routes to establish a presence pending route development or to achieve network expansion (e.g. Qantas code share on Finnair to Helsinki), to maintain a presence following withdrawal (e.g. Qantas code share to Rome on Cathay Pacific) or to achieve desired levels of frequency (e.g. reciprocal code share between Qantas and South African Airways).

IATA comment

IATA interlining provides an initial presence on a route before airlines proceed to consider code sharing. Code share agreements are bilaterally negotiated. They require both airlines to agree before they can be concluded. They are also route specific.

What is often overlooked is that code shares are used by airlines to improve a connecting flight’s display in computer reservations systems, as an online connection always takes priority over an interline connection.

5.27 Special prorate agreements are bilateral agreements between airlines which specify the rates at which an airline will charge a second airline for access for passenger ticketing purposes to a specific sector or sectors the first airline operates. Qantas for example has special prorate agreements with international airlines visiting Australia to enable those airlines to ticket passengers on domestic sectors beyond hubs such as Sydney and Melbourne. Special prorate agreements allow interlining to occur at fares substantially below IATA interline fares.

IATA comment

Special Prorate Arrangements (SPAs) take no particular form.

They are often applicable to a wide variety of fares as agreed between the airlines concerned. For example an SPA that specifies a particular amount for a domestic sector is likely to apply regardless of whether the passenger has been ticketed at an IATA fare or another fare. However where an airline or bilateral fare has been used it is likely that the flight coupons covering sectors for which a SPA applies will be endorsed “Valid on XX only”. Such restrictions reduce significantly the flexibility available to the passenger, as he or she would be unable to change airlines or to omit or add intermediate stopping points. For many smaller domestic-only airlines having SPAs allows them to simplify their accounting processes as it means they do not need to train staff in the complex international fare construction and proration procedures.

The comment in paragraph 5.27 that SPAs allow interlining at fares significantly lower than IATA fares has not been substantiated, and wrongly implies that this is the main reason for SPAs. In fact the incentive for larger airlines is to reduce cost, and for smaller airline it is to get the business that SPAs bring.

Network reach of alliances

5.28 The three major marketing alliances are all represented by airlines providing services to Australia. Oneworld is represented by British Airways, Cathay Pacific, Lan Chile and Qantas. The Star Alliance is represented by Air Canada, Air New Zealand, Asiana, Singapore Airlines, South African Airways, Thai Airways and United Airlines. Skyteam is represented by Korean Air. According to the September 2004 edition of Airline Business the oneworld alliance serves 798 destinations in 140 countries, the Star Alliance 591 destinations in 136 countries and Skyteam 512 destinations in 120 countries.

10 Team Spirit, Airline Business, September 2004
IATA comment

IATA notes that according to the September 2004 edition of Airline Business, it was Star Alliance that served 798 destinations in 140 countries and oneworld that served 591 destinations in 136 countries. According to the September 2005 edition, those figures are now 770 destinations and 140 countries for Star, 549 destinations and 133 countries for oneworld and 664 destinations and 146 countries for SkyTeam.

As noted in IATA's original submission, although important, the alliances do not offer anything like universal coverage of the destinations throughout the world served by scheduled air services. There are almost 3,900 cities with operating scheduled air services.a From the Airline Business figures the most served by any one alliance is just 770.

a Source: OAG Worldwide Limited

5.29 Airlines in the above three marketing alliances carried 74% of passenger travelling to and from Australian in 2003 according to ABS statistics.

IATA comment

It would be a mistake to assume that all of these passengers accessed destinations only served by the alliances, or that they did not utilise IATA fares. For instance, Cathay Pacific, a member of the oneworld alliance, has advised IATA that across its network approximately 30% of sales are on either IATA normal or IATA special fares.

It would also be a mistake to assume that alliances do not rely on the IATA tariff coordinating system for the interline aspects of their operations. Within alliances there may or may not be special prorate arrangements, but even where there are such arrangements they operate on the basis of the IATA system. Where there are no special prorate arrangements, interlining depends entirely on the IATA system.

For instance, Singapore Airlines has advised the ACCC that, for the financial year April 2003 to March 2004, 10.7% of tickets on its flights from Australia incorporated fares agreed at IATA Tariff Coordinating Conferences. The percentage breakdowns of IATA interlineable tickets sold by destination vary from 9.7% - 52.6% for first class, 11.7% - 27.9% for business class and 5.2% - 7.7% for economy class.

a Singapore Airlines letter dated 29 March 2005

5.30 The four airlines operating on Australian routes which carry the most passengers and are not in one of the three major marketing alliances are Air Pacific, Emirates, Japan Airlines and Malaysia Airlines. Between them these airlines carried 15% of passenger traffic to and from Australia in 2003. All these airlines are still involved in significant alliance relationship with other airlines:

- Air Pacific is 46% owned by Qantas which provides ground and counter support in Australia and code shares on Air Pacific flights. Air Pacific also code shares with American Airlines.

- Emirates participates in code shares with Air Mauritius, Air India, British Airways, Continental Airlines, Japan Airlines, Philippines Airlines, Royal Air Maroc, South African Airways, Sri Lanka Airways and Thai Airways.
• Japan Airlines participates in code shares with Aeromexico, Air France, Air New Zealand, Alitalia, American Airlines, British Airways, Cathay Pacific, China Eastern Airlines, China Southern Airlines, Emirates, Iberia Airlines, Japan Airlines Domestic, Korean Air, Qantas, Swiss, Thai Airways, THY Turkish Airlines, and Vietnam Airlines.

• Malaysia Airlines participates in code shares with Air Mauritius, Air India, All Nippon Airways, British Midland, Cathay Pacific, Dragonair, Egypt Air, Garuda Indonesia, Iran Air, KLM, Korean Air, Lauda Air, Philippine Airlines, Qatar Airways, Royal Brunei Airlines, SilkAir, Singapore Airlines, Sri Lankan Airlines, Swiss, Thai Airways, Vietnam Airlines and Virgin Atlantic Airways.

**IATA comment**

Paragraph 5.30 gives an impression that the code share agreements between the airlines listed cover the whole of their respective networks. Code share agreements are route specific and often apply to only identified services on the specific route. They are normally negotiated on an annual basis and may or may not be renewed, depending on the commercial interests of the airlines concerned. Code share agreements are normally also limited in terms of the classes of travel and the number of seats available in those classes. Additionally airlines may only provide code share services where they have the necessary route authority from the relevant national authorities.

Although code sharing is a method used by airlines to extend their route networks, given regulatory constraints and operational requirements, they should not be regarded as a substitute for IATA interlining.

5.31 Aside from its bilateral alliance with BA and affiliations with one world partners Qantas has code share arrangements in place with airlines including Air Calin, Air Nuigini, Air Tahiti Nui, Air Vanuatu, Alaska Airlines, Alitalia, Asiana, China Eastern, EVA Air, Gulf Air, Polynesian Airlines, South African Airways, Swiss and Vietnam Airlines.

5.32 While information on special prorate agreements between airlines is not widely available to the public, the practice is believed to be widespread and the number of such arrangements substantial. For example Philippine Airlines has advised the ACCC that it has special prorate agreements in place on specific routes with 42 other airlines. Singapore Airlines has advised the ACCC that it has over 150 special prorate agreements with other airlines.

**IATA comment**

It would be a mistake to assume that special prorate agreements (SPAs) are a substitute for the IATA system. They are not.

The IATA system is just one of a large number of product offerings that are available to consumers. These product offerings complement each other and increase consumer choice. It is true that airlines, both big and small, achieve opportunities through bilaterally negotiated special prorate agreements, however it is believed that such agreements apply over a wide range of fares, both IATA and non-IATA.
Sale of Passenger Air Transport

5.33 A major development in recent years in the sale of passenger air transport has been the increased availability and promotion of website sales, initially for domestic passenger sales, but increasingly for international travel as well.

IATA comment

The development of web-based airline sales and virtual travel agencies is a major recent factor in the distribution of passenger air transport. However, none of the websites available to consumers can give the wide range of choices that they can access through traditional means. Beyond the most simple point-to-point journey it is not yet possible for consumers to request prices for or make bookings for even the simplest interline journey. These cannot be booked in a single transaction on airline’s web pages, and it is necessary for the consumer to book separate tickets with each of the airlines concerned.

It can be a frustrating experience for the non-savvy consumer, not having the knowledge of who flies where and when and the equivalent values of foreign currencies, to attempt to accomplish themselves what a professional travel advisor can do in the course of their normal business. As pointed out in IATA’s 22 April 2005 response to ACCC questions at para 3(b), while consumers may forgo seamless travel and do-it-themselves it is not always without risks, as a British couple found when an internet booking mix-up meant that they arrived in Sydney Nova Scotia, instead of their intended destination of Sydney Australia.a

Most websites are unable to quote ‘round-the-world’, ‘circle pacific’ or other similar fare offerings. The functionality of other sites makes it difficult or impossible to specify intermediate stopping points between the passenger's origin and destination.

There is also the risk of fraud when booking cheap tickets through unknown internet sites.b Consumers need to be very careful in ensuring that the website of a virtual travel agency, or airline, is not an internet scam. While this is not unique to the travel industry it may be difficult for a consumer to know which internet sites are legitimate.

Most online retailers require payment by credit card, no other options are available, and some will only accept credit cards issued in the country where travel will commence.

a See http://news.bbc.co.uk/2/hi/uk_news/2172858.stm

5.34 The growth of low cost carriers into short haul domestic and international markets around the world has been accompanied by a movement away from the traditional booking services provided by travel agents to direct bookings with airlines through both call centres and websites. For low cost carriers such an approach enables them to minimise their distribution costs. Increased competition in international markets, including from low cost carriers, has also seen network or full service carriers pursue similar strategies and most major international carriers now offer on-line booking services.

IATA comment

Although there has, in some countries and in Europe, been an expansion in the operations of low cost airlines, it is overstating the matter to claim that ‘around the world’ this has resulted in ‘a movement away from the traditional booking services provided by travel agents to direct bookings with airlines through both call centres and websites’.
Although airlines, whether low cost or otherwise, have utilised the opportunities the internet has provided, travel agents continue to provide the overwhelming volume of sales of international airlines tickets world wide, including in Australia.

The internet has developed as a sales channel for international airline tickets, as it has developed as a sales channel for many other products and some services. It is an efficient method of advertising for airlines and travel agents alike. It is also an efficient method for a growing number of internet-proficient consumers in some countries to gain information about destinations, routes and fares and to plan itineraries.

However, even in those countries where the internet has a high penetration rate in society, international airline bookings by internet still make up a small percentage of total bookings. The internet tends to be used in those countries to investigate and possibly plan a journey, but when it come to actually buying a ticket, this transaction tends to be through a traditional travel agent. Qantas has reported, for example, that while direct internet sales accounted for 25% of its domestic bookings in the 2002/03 financial year, such sales accounted for only 6% of international bookings over the same period.a

Airlines have always sold their tickets direct to the public as well as through their agents, but the position remains that travel agents sell the vast majority of international airline tickets, and are likely to remain the most important distribution channel for international airline tickets for the foreseeable future.

Qantas has been reported as selling 77% of tickets through agents in 1987/8 with an increase in this figure to 79% in 2000. In 2001 AFTA’s then chairman estimated that sales handled by agents accounted for 80%-85% of international ticket sales worldwide. While airline internet sites are likely to provide some competition thereby reducing that percentage somewhat, the agents are responding competitively by introducing powerful internet capabilities of their own. These sites offer comparison of services and prices on a range of airlines rather than one airline only, giving them the competitive edge over single airline sites travel agents have always enjoyed.

To the extent that paragraph 5.34 is intended to suggest that low cost airlines only sell their tickets through their internet sites and not through travel agents, while that may be the marketing method chosen by some such airlines it is not a universal practice. In Australia Pacific Blue, Virgin Blue, Jetstar and Australian Airlines all sell tickets through travel agents as well as online.

---

5.35 In 2003 Air NZ introduced a new fare structure into the market between Australia and New Zealand which incorporated the pricing and sale of point to point sectors with a reduced number of fare classes and the removal of many traditional restrictions such as those relating to overnight stays. This was the type of fare structure employed by low cost carriers and was designed for web and call centre sales.

5.36 With other carriers on the trans-Tasman route subsequently introducing similar fare systems it is now possible for consumers to compile itineraries aggregating sectors across different airlines.

5.37 Thus far the sector sale approach has not been introduced into long haul markets involving Australia, although it has been introduced on some other long haul routes and there has been conjecture generally about the possibility of low cost carriers entering long haul routes. Airline Business notes that the new Canadian airline, Zoom, offers low fare, scheduled services between Canada and the United Kingdom. Airline Business comments that:

---

'A more sustainable future could see the incumbents, or at least those who aim to survive, adapting their fares structures on the long haul just as some are already doing on the short haul: lifting restrictions and offering everyday low prices.'

### IATA comment

The concept of long-haul 'low-cost' models is certainly not a recent one. Freddy Laker's SkyTrain was introduced between London and New York in the 1970s. As noted above, Air Florida, before their bankruptcy in 1984 operated between Miami and London, and through their code-share agreement with British Island connecting services to the continent. PeoplesExpress, for a short period, also operated trans-Atlantic services.

While new services may be introduced into long haul markets in the future, that does not mean that such a business model will suit the purposes of all travellers.

5.38 However with the focus of most international airlines being the sale of travel on their own flights or those of their alliance partners, the sale of interlining over web sites is generally restricted to itineraries involving one airline or within alliance travel. It remains to be seen where the traditional IATA endorseable interline ticket fits against these developments. At this stage neither the websites of travel agents or airlines seem geared to the construction by the consumer of complex itineraries involving interlining premised on the use of IATA fares.

### IATA comment

As noted in the comment to paragraph 5.33 above, IATA shares the view expressed on this point. However it should not be assumed that consumers have lost access to the traditional means of accessing multilateral interline journeys. A simple phone call to an airline or their travel agents can give a consumer a wide range of options, including the IATA interline option when that suits the consumer's needs.

5.39 The importance of the on-line sale factor is evident in some of the side effects of moves within the industry to introduce full electronic ticketing by 2007. IATA has reported that airlines are cancelling interline agreements with partners who are not capable of electronic ticketing.

### IATA comment

It is true that airlines that are not e-ticket enabled will not be able to continue to issue paper tickets for transport on airlines that only accept e-tickets. IATA is working closely with all airlines to ensure that they have the tools to adopt and apply e-ticketing. In the run-up to full implementation by the end of 2007 it is inevitable, as not all airlines are moving at the same speeds, that some interline agreements will be cancelled in the interim.

---

6. **SUBMISSIONS**

**IATA’s supporting submission**

6.1 IATA provided a submission in support of the IATA Tariff Coordination System and provided further information in response to questions from the ACCC.

6.2 IATA has summarised the benefits of the Tariff Coordination System as being:

- it is mandated by international agreements to which Australia is a party and compliance with Australia's international obligations is a public benefit;
- it is required by other countries and is an important input to government tariff approvals in those countries;
- it is essential to worldwide multilateral interlining which is a significant public benefit;
- it provides 'through' fares and rates
- it acts as a natural cap on individual airline pricing; and
- it provides a neutral venue for airlines wishing to interline.

6.3 In terms of the competitive effects of Tariff Coordination IATA submitted that:

- there are no structural rules which impede competition;
- interlining and tariff coordination provide a meaningful open opportunity for airlines to compete;
- the behaviour of relevant markets is a guide to whether or not those markets are competitive; and
- it is relevant to see whether, where airlines are able to compete without interlining and do so, Tariff Coordination retards that behaviour.

**Submissions from interested parties**

6.4 Submissions responding to the application were received from the following interested parties:

- Air Vanuatu
- Cathay Pacific
- Delta
- Department of Industry, Tourism and Resources (DITR)
- Japan Airlines (JAL)
- KLM Korean Air (Korean)
- Lufthansa
- Malaysia Airlines
- Melbourne Airport
- Philippine Airlines
- Singapore Airlines
- South African Airways (SAA)
- Thai Airways International
- Department of Tourism, Sport and Recreation, NSW (DTSR)
- Department of Transport and Regional Services (DTRS)
- Department of Transport and Urban Planning, South Australia (DTUP)
- TTF Australia Ltd (TTF)
- Virgin Atlantic
IATA comment

All submissions, other than one lodged recently by AFTA, supported re-authorisation. It is also important to note that those who lodged submissions are organisations in a position to know what happens in the international aviation industry, to speak authoritatively about the benefits of the IATA system and its likely impact, in practice, on competition. They are in a position to state what happens in practice - rather than to theorise about what might or might not be the case.

It is significant that government departments with primary responsibility for transport and tourism have supported re-authorisation of the IATA system and pointed to the benefits interlining and tariff coordination provide.

IATA is concerned that the ACCC Discussion Paper does not present a balanced representation of the comments made by third parties and that some comments that were presented are out of context.

The Federal Department of Transport and Regional Development stated that "DOTRS supports IATA's view that fares agreed through the IATA tariff coordination process respond to circumstances when passengers have no choice but to travel on a number of different sectors with different airlines … or where passengers need to change travel arrangements during their journey … There is always likely to be a need for a tariff for particular sectors to be established at IATA tariff coordination conferences …".

The Federal Department of Industry, Tourism and Resources went further, stating: "We consider that the removal of interlining and passenger tariff coordination could have a negative impact on the Australian tourism industry. The IATA system enables airlines to work together to provide travellers with greater flexibility in terms of flight options and ticket conditions than would otherwise be available. … Interlining creates opportunities for airlines to tap tourism markets that are not directly served and for smaller airlines to expand their global reach which encourages competition and benefits tourism.".

The NSW Department of Tourism, Sport and Recreation stated: 'Based on considerations of the consumer and broader tourism industry benefits associated with the operation of the passenger tariff coordination arrangements, Tourism New South Wales supports IATA's application.'

The South Australian Department of Transport and Urban Planning pointed out that 'Interlining is particularly important to South Australia … The reciprocity that the IATA system provides … allows interlining between smaller airlines and between alliances. This spreads the benefits of interlining … More consumer choice and competition results …'.

Industry participants - airlines and agents - all agreed that the IATA system provides benefit and does not have any adverse effect on competition. The only apparent differences between them is over the extent of the benefit. This is not surprising given that each participant operates its business in a highly competitive market and the impact of the IATA system on the customer base each serves will naturally be different.

b  Letter to ACCC 29 November 2004.
d  Letter to ACCC 9 September 2004.

6.5 The ACCC also held meetings with a number of industry parties on IATA Tariff Coordination. Records of those meetings are on the ACCC's public register. The parties involves were:

- American Express International (Amex)
- Flight Centre Ltd
- Harvey World Travel (HWT)
- Qantas Airways Ltd (Qantas)
- United Airlines

6.6 A summary of contents submitted by interested parties is provided below. The detail of the comments will be addressed as appropriate by the ACCC when assessing the individual elements of the IATA Tariff Coordination System.
6.7 Air Vanuatu submitted that it does not participate in IATA tariff conferences but feeder traffic is very important to the airline and about 8% of Air Vanuatu's feeder traffic comes through IATA Multilateral Interline Traffic Agreements.

IATA comment

Air Vanuatu stated that it supports the IATA application.

The comment made by Air Vanuatu has been misunderstood. Air Vanuatu does not participate in IATA conferences essentially for cost reasons. It would be incorrect to imply that it is a matter of policy. The airline just does not have the people to send to meetings in Singapore or Montreal. Air Vanuatu has about 180 people all up involved in the international side of its operations, including pilots, engineers, cabin crew etc. It is just not feasible for people from the airline to go to IATA meetings.

Although Air Vanuatu is not able to attend IATA meetings, the airline has advised that it has not seen anything on the agenda contrary to its interests. If Air Vanuatu did see anything on the agenda contrary to its interests, it would raise the matter with IATA.

6.8 Amex indicated that it has a large number of corporate clients and IATA fares would represent less than 15% of the tickets it sells. Very few passengers would use the interlineable facility offered by IATA fares. The leisure market is very price sensitive and as tourists want cheaper fares, IATA fares do not benefit tourism.

IATA comment

IATA has reviewed the record of interview with American Express on 24 November 2004. It appears to be a record of a general introductory discussion rather than the outcome of in depth analysis of the subject matter.

For instance, what appears as a positive factual statement in paragraph 6.8 that: 'Very few passengers would use the interlineable facility …' appears in the record of interview as a much more qualified statement of impression.

In addition, that statement of impression explains what Mr Aitkenhead meant by the words 'use the interlineable facility'. He was referring to only one feature - the opportunity to change airlines. That was not included in paragraph 6.8. Again, this appears from the record of interview to have been a matter of impression rather than a statement of fact based on any apparent analysis.

IATA notes that American Express is a very significant travel agency in Australia. If about 15% of its tickets were at IATA fares that would be a significant number of travellers. Although this is less than the 21% of tickets processed through the BSP Australia indicated to be IATA interlineable tickets in IATA's original submission, it is still a significant figure. Extrapolated over all passengers in 2004, 15% represents almost 3 million passengers.a

a Source: BTRE International Scheduled Traffic to/from Australia - Uplift/discharge and Transit 2004

6.9 Cathay Pacific submitted that it relies on both commercial arrangements with other airlines and the IATA interlining system to provide access to destinations not served by the airlines or the network of oneworld global alliance.

IATA comment

Cathay Pacific added that: 'IATA tariff coordination and interlining are important for consumers and the industry alike. They provide a facility for the smooth international movement of passengers and freight which cannot be duplicated on a global basis by any other system.'
6.10 Delta submitted that tariff coordination and interlining are important for consumers in providing a facility for the smooth international movement of passengers and freight which is not able to be duplicated on a global basis by any other system.

6.11 DTISR supported the IATA application on the basis of consumer and broader tourism industry benefits associated with the operation of the passenger tariff coordination arrangements.

6.12 Flight Centre advised they sold negligible amounts of fully flexible economy fares and there was little incentive for business travellers to purchase IATA business class and first class fares. An IATA interline fare was only offered for offline travel as an absolute last resort after exploring all other options.

IATA comment

According to the record of interview dated 2 February 2005, Flight Centre did not dispute the 21% figure put by to them by the ACCC representative and incorrectly said to be what IATA claimed to be the percentage of Y class economy tickets identified from BSP data. Rather, the Flight Centre representatives referred to their company's experience.

In any event the BSP data submitted by IATA did not show 21% for economy tickets. It showed 21% for tickets in all classes.

The only recorded statement is that; 'FC stated that they sold negligible amounts of full Y class fares. … Indeed the sale of a Y class fare was an absolute exception' which is not surprising given that Flight Centre concentrates on low cost holiday travel.

Flight Centre did, however, acknowledge that it sold 'some IATA excursion economy fares for travel to Asia' and 'Not many IATA excursion fares were sold into Europe'. This confirms two points. First, the nature of the discussion was general and the responses provided were impressions rather than facts on which a decision maker could rely. Secondly, Flight Centre does sell IATA fares. Interestingly, the record of interview does not disclose what was regarded by Flight Centre as 'negligible' or 'some'. No figures were recorded.

6.13 HWT advised that IATA published fares are not often sold to leisure travellers and are likely to be used only by business travellers. HWT's first response to a request for an itinerary requiring off line travel is to offer the cheapest combination of net fares and alliance options, sometimes including legs with low cost carriers. Multiple sector itineraries can be booked in one currency through the GDS. HWT considered IATA excursion fares are rarely used. IATA agreed ticket conditions such as seasonality, concessions, etc, flow into discounted tickets.

IATA comment

The record of interview dated 9 December 2004 differs markedly from the summary in paragraph 6.15.

First, the statement was that 'IATA fares are likely to be used mainly by business travellers' not 'are likely to be used only by business travellers'.

Secondly, with reference to legs with low cost carriers, the record of interview does not include the statement: 'Multiple sector itineraries can be booked in one currency through the GDS'. The statement, which was made in relation to an entirely different subject - the general ability to book for travel around the world - was 'Through the GDS system travel agents can book sectors around the world on one currency'.

Third, the statement did not include a comment that 'HWT considered IATA excursion fares are rarely used. All that is recorded as being said was that 'HWT would not normally offer an IATA fare to a leisure passenger'.

HWT is, as Ms Hague noted, an agency that mainly sells to leisure travellers. When the ACCC representative put to her, incorrectly, that IATA had claimed that 20% of economy class fares sold in Australia were Y class full economy interlineable fares, Ms Hague's recorded reply is merely that 'her experience was that Y class fares were a considerable (sic) lower percentage of economy fares'. How much lower
is not recorded, but in any event it is clear that Ms Hague was responding to a question without notice without the benefit of any data.

Ms Hague was asked about constructed itineraries. She is recorded as having acknowledged that ‘published fares would generally be used more frequently by business travellers who were looking for flexibility and multiple destinations …’ and ‘Business travellers may also like the flexibility to return on a different airline if their work schedule changes.’ Although the type of published fare Ms Hague was referring to is not recorded, it seems clear from the reference to changing airlines that she was referring to IATA fares and acknowledging both their benefit and the fact that business travellers use them. This is not recorded in paragraph 6.13.

6.14 JAL stated that IATA tariff coordination is very important to it and supported the IATA application but was unable to say how many tickets were issued at IATA fare levels.

**IATA comment**

JAL stated that it supported the IATA application.

Although JAL was unable to say how many tickets were issued at IATA fare levels, the airline pointed out that ‘passengers purchase tickets at an IATA fare on triangulated routes involving JAL and other airlines’. No doubt JAL had in mind, for example, an itinerary such as Sydney-Tokyo-Seoul-Hong Kong-Sydney or a more extensive itinerary such as Sydney-Tokyo-New York-Rio de Janeiro-Sydney.

JAL will be providing a further submission to the ACCC in relation to this paragraph.

6.15 KLM submitted that as an offline carrier the IATA interlining system is essential to its business in Australia. KLM provided detail of airlines with which it has code share and special prorate agreements in place and stated that for routes or carriers where it does not have such arrangements it relies on IATA interlining.

**IATA comment**

KLM stated that it supported the IATA application.

KLM also stated that its SPAs rely on the IATA system and pointed out that for some of its SPAs ‘IATA proration rules are applied except that any provisos are ignored.’

KLM also pointed out that airlines issue IATA tickets in circumstances where they do not charge the IATA fare to the passenger. In other words, the airline makes a commercial decision about the fare it will charge but the passenger gets the benefit IATA interlining provides. This is no doubt made possible by the way in which IATA through fares are calculated and sector fares prorated.

As a hypothetical example, as shown by the information in Appendix 1 to this submission, an airline can issue a ticket at the IATA Sydney-London-Sydney fare which provides for the passenger to travel Sydney-Rome-Geneva-Brussels-London-Sydney, an itinerary that no single airline or alliance can provide. The ticketing airline might provide the Sydney-Rome and London-Sydney sectors, but interline the passenger to other airlines for the Rome-Geneva and the Geneva-Brussels legs. The ticketing airline would settle with the interline airlines at the prices indicated in Appendix 1 to this submission (adjusted depending on the actual routing) regardless of the amount it actually charged the passenger. The ticketing airline would make a commercial judgement about how much to actually charge the passenger.
6.16 Korean submitted that tariff coordination and interlining are important for consumers in providing a facility for the smooth international movement of passengers and freight which is not able to be duplicated on a global basis by any other system.

**IATA comment**

Korean Air also stated that it supported the IATA application.

6.17 Lufthansa supported the IATA application for authorisation and regarded the whole IATA system as an integrated system without which it would be difficult for Lufthansa, which does not operate services to Australia, to serve the Australasian region.

**IATA comment**

Lufthansa also pointed out that its code share and commercial arrangements are all underpinned by the IATA system. It also stated that tariff coordination is an important component of the overall IATA system, especially for interlining.

6.18 Malaysia Airlines submitted that tariff coordination remains an important component of the IATA system, especially for interlining and is important to Malaysia Airlines.

**IATA comment**

Malaysia Airlines also stated that it supported the IATA application.

6.19 Melbourne Airport considered there are no anti-competitive detriments associated with IATA tariff coordination while it does provide significant benefits including reducing transaction costs.

**IATA comment**

Melbourne Airport urged the ACCC to authorise IATA tariff coordination and interlining, also pointing out that the IATA arrangements reflect international aviation practice.

6.20 Philippine Airlines supported the IATA application. It stated that as it only has a limited route network and does not fly to Europe, Africa or South America it relies on commercial arrangements with other airlines and the IATA interlining system.

**IATA comment**

Philippine Airlines also stated that the IATA interlining system is very important to the airline and that it would not exist without IATA tariff coordination.

Philippine Airlines observed that code sharing, alliances and SPAs had, in its opinion, increased since 1984/5 but pointed out that many of these arrangements rely on IATA tariff coordination.
6.21 Qantas indicated that they sell very few IATA fares. The main benefit from tariff coordination is for complex itineraries for a few passengers in the business market. IATA fares are not commonly applied but they are the benchmark from which Qantas discounts.

IATA comment

Qantas was interviewed by ACCC representatives on 9 December 2004 and paragraph 6.21 is a short summary of some of the comments made in the course of that interview.

The record of interview does not support the statement that: 'Qantas indicated that they sell very few IATA fares.' What is recorded is that in all fare classes Qantas sells more net fares than IATA fares, a statement which is in line with the BSP data IATA originally submitted. IATA has not and does not assert that more IATA fares are sold than other fares. However, the record of interview does not disclose that any specific percentage was discussed. The only other relevant statement in the record of interview appears to be the statement that in Y class, based on findings on the JSA routes (the routes on which Qantas has an operating alliance with British Airways), IATA fares do not represent more than 2%. IATA notes that in a letter to the ACCC dated 27 October 2005 Qantas advised that further analysis tends to show that the use of IATA fares on other routes is considerably higher than the 2% on JSA routes.

Although Qantas is recorded as having observed that IATA fares are, for that airline, 'benchmark fares from which Qantas discounts' what Qantas meant by that statement is not explained in the record of interview. IATA understands Qantas to mean that IATA fares are seen by Qantas as a benchmark in the sense of a price cap to which it compares its market fares. IATA does not understand Qantas to be implying that it does other than set its fares competitively and dynamically having regard to a number of factors, including its perceptions of the market, demand and load trends and where it wants to position the services offered by the airline. In other words, IATA interprets Qantas as using the term 'benchmark' in the non emotive sense.

6.22 Singapore Airlines provided detail of the number of IATA fares it sold and the airlines with whom it had special prorate agreements.

IATA comment

Singapore Airlines provided detailed data on the number of tickets for its flights from Australia that incorporated fares agreed at meetings of the IATA Tariff Coordinating Conferences. The figure for the period April 2003 to March 2004 was 10.7%.

Singapore Airlines provided detailed data on the percentages by route for that period. They were:

- Sydney to Los Angeles - 13.3%
- Sydney to Singapore - 13%
- Sydney to Bangkok - 11.6%
- Sydney to London - 5.6%
- Sydney to Hong Kong - 6.1%
- Sydney to Tokyo - 9.5%
- Sydney to Manila - 17%.

The Singapore Airlines data went further. It provided information on a range of destinations from Australia. The data is set out in the following table:

<table>
<thead>
<tr>
<th>Route</th>
<th>First</th>
<th>Business</th>
<th>Economy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia to North and South America</td>
<td>9.7%</td>
<td>11.7%</td>
<td>6.1%</td>
</tr>
<tr>
<td>Australia to Asia and the Middle East</td>
<td>52.6%</td>
<td>27.9%</td>
<td>5.2%</td>
</tr>
<tr>
<td>Australia to Europe</td>
<td>20.7%</td>
<td>12.9%</td>
<td>5.2%</td>
</tr>
</tbody>
</table>
It is interesting to note that none of this information was referred to in the ACCC Discussion Paper. It appears to have been overlooked entirely, even though it was the most comprehensive factual information on the percentage of IATA interlineable tickets issued in Australia, other than the BSP data.

6.23 South African Airways submitted that while code sharing and alliances have increased since 1984/85 this does not change the fact the IATA interlining system provides a much more extensive route network than any airline might currently have using code share and special prorate agreements.

IATA comment

South African Airways also stated that through the IATA MITA it has interline arrangements with a large number of airlines, that its code share and SPA arrangements relate to specific routes only and that many of its SPAs are underpinned by IATA fares and prorate arrangements.

As far as New Zealand is concerned, as South African Airways does not operate to New Zealand its passengers are interlined under the IATA system as the airline does not have any code share or SPA covering the Australia - New Zealand sector.

6.24 Thai Airways submitted that whilst it does have a majority leaning towards market fare practices, as do most international carriers servicing Australia, the IATA published fare structure remains an important component of its overall sales strategy.

IATA comment

Thai International stated that it supported the IATA application.

The airline also stated that it is often necessary for the airline to use IATA published fares to determine what it will be billed by an interlining airline and add that component to its own online Australian market fares in order to position Thai International as a competitive alternative.

This can be illustrated by the example of a passenger wishing to travel Sydney – Dubrovnik – Sydney. Thai International can sell a ticket for this itinerary via Frankfurt, even though it does not operate a service to Dubrovnik, by carrying the passenger on its own services for the Sydney – Frankfurt – Sydney sectors and interlining the passenger to Croatia Airlines for the Frankfurt – Dubrovnik – Frankfurt legs.

Croatia Airlines is the only airline operating between Frankfurt and Dubrovnik. Thai International does not have an SPA with Croatia Airlines but is nevertheless able to use the IATA interline system to interline the passenger. The current IATA low season return special fare Sydney- Dubrovnik is $3,390. Croatia Airline's prorate share for the Frankfurt – Dubrovnik sector would be $205.37, amounting to a total of $410.74 for the return journey. That share will remain the same regardless of the amount Thai International actually charges the passenger. Thai International will make a commercial judgment about how much it will charge the passenger, knowing the amount that it must settle with Croatia Airlines. If the IATA system was not available to Thai International the only option would be Croatia Airlines' published fares. In comparison to the total prorate share under the IATA system of $410.74, Croatia Airlines' lowest published unrestricted economy class return fare Frankfurt – Dubrovnik is $1690. In this situation, airlines that had access to an SPA with Croatia Airlines would have an advantage that Thai International could not match in the market.
Thai International also pointed out that SPAs are not always fixed amounts. They can be based on the IATA prorate system, with a percentage discount from the standard prorated billing.

6.25 DITR considered that the removal of interlining and passenger tariff coordination could have a negative impact on the Australian tourism industry as the IATA system enables airlines to work together to provide travellers with greater flexibility in terms of flight options and ticket conditions that would not otherwise be available.

IATA comment

This paragraph understates the submission made by the Department of Industry Tourism and Resources significantly. The ACCC Discussion Paper appears to overlook the fact that DITR stated that it is supportive of the IATA tariff coordination and interlining system and expressed the view that they are 'central to the efficient operation of international air services'.

Further, DITR stated that it 'recognises that many benefits derive from the tariff coordination and interline arrangements'.

6.26 DTRS did not offer comments on claimed benefits and detriments of tariff coordination but did provide up to date information and views on air services agreements to which Australia is a party, including those containing the 'IATA clause'\(^{13}\), and as well responded to a number of specific questions asked by the ACCC.

IATA comment

This paragraph overlooks the important statement made by the Department of Transport and Regional Services (DOTRS), the federal department with responsibility for aviation policy, that: ‘There is always likely to be a need for a tariff for particular sectors established at IATA tariff coordination conferences to give airlines that do not operate on that sector or are not in an alliance arrangement with an airline that does operate on the sector, the opportunity to sell a ticket covering travel for the entire route of a journey.’

This is, of course, the same point that Thai International made.

Contrary to what is asserted in paragraph 6.26, DOTRS did make comments on the benefits of tariff coordination and interlining. First, as noted above, DOTRS stated that there will always be a need for IATA tariff coordination conferences. Secondly, DOTRS stated that it supported IATA’s view that fares agreed through the IATA tariff coordination process responds to circumstances where a passenger either has no choice but to travel on a range of airlines to reach the required destination or where the passenger needs flexibility - both clear benefits.

Third, it is evident from the DOTRS submission that it regarded tariff coordination as important for interlining and that interlining delivers benefits as claimed by IATA.

6.27 TTF indicated concern that a failure to authorise the IATA Tariff Coordination System would result in a decline in inbound tourism as it would become increasingly difficult for ‘feeder’ traffic from markets not currently served by flights into Australia to travel into the country.

---

\(^{13}\) Refers to a tariff clause contained in certain Air Services Agreements which makes specific reference to IATA Tariff Coordination. See paragraph 10.8 on page 52.
IATA comment

TTF stated that it supported the IATA application.

Paragraph 6.27 significantly understates the submission made by the TTF. The TTF pointed out that 'tariff coordination is important to Australia's aviation industry', stated that tariff coordination is essential to interlining and listed the public benefits that TTF thought arise from interlining.

TTF expressed the view that, without re-authorisation interlining in Australia would become 'virtually impossible … resulting in increased costs for airlines, which would likely be passed on to the consumer …'. A lack of interlining would, TTF submitted, 'negatively impact on the proportion of customers that currently travel into Australia using interlining tickets'.

6.28 DTUP regarded interlining as important to South Australia because of the small number of international airlines serving Adelaide. The IATA system was seen as allowing interlining between small airlines and alliances and providing a means for small airlines to compete with larger airlines and alliances.

IATA comment

The South Australian Department of Transport and Urban Planning stated that it supported IATA’s application.

Paragraph 6.28 significantly understates the Department’s submission.

The submission points out that IATA does not set fares or enforce compliance with fares resulting from the process it administers and that the Department 'is not aware of any evidence that would suggest that consumers pay more for international air services because of this system.'

The Department is quite correct.

In a subsequent letter dated 30 August 2005 following the release of the ACCC Discussion Paper, the Department stated that: '… the [discussion] paper lacks convincing evidence that in the face of all … competitive alternatives, the IATA arrangements do in fact impose a competitive disbenefit'.

6.29 United Airlines commented that airlines still sell IATA fares and for non-IATA fares the IATA tariffs are a benchmark or starting point for setting fares that will actually be paid by customers.

IATA comment

United Airlines supports IATA’s application.

United Airlines stated that interlining is as prevalent today as it ever was, that airlines utilise the IATA fare structure to determine the amount they have to pay each other, but not necessarily the amount that they will charge the customer and that IATA tariffs are required on point-to-point routes to allow travellers to move to other airlines and provide a basis for settlement between airlines.
6.30 Virgin Atlantic supported the continuation of IATA traffic conferences to facilitate interlining.

**IATA comment**

Although Virgin Atlantic does not participate in tariff coordination the airline recognises the benefit it brings and stated that "abolition of the traffic conferences without consideration of how to preserve their important positive aspects would, on balance, significantly harm rather than benefit competition."

Virgin Atlantic also commented that ‘increasingly we rely on interline traffic to maintain the profitability of our route network’ and ‘Extensive studies has shown that the IATA Traffic Conference system is extremely important to the continuation of interlining’.

7. **MARKET DEFINITION**

7.1 The first step in assessing the competitive effects and the public benefit/detriment of the conduct for which authorisation is sought is to consider the relevant market(s) in which that conduct occurs.

7.2 In considering the boundaries of a particular market, the ACCC seeks to include all those sources of closely substitutable products to which consumers would turn in the event that a firm attempted to exercise market power. The ACCC looks at both the demand and supply side of the market and considers up to four different dimensions:

- geographic dimension - which may be local, state, national or international depending on where trade occurs;
- product dimension - based on whether products are close substitutes for one another;
- functional dimension - defines at what level the conduct in question occurs, eg retail or wholesale; and
- temporal dimension - raises questions of the impact of time upon the analysis.

**IATA comment**

IATA has no issue with this brief description of the way in which market definition is to be approached according to Australian authority, but it will be clear from the following paragraphs that IATA fundamentally disagrees with the assumptions made and conclusions reached in this section of the ACCC Discussion Paper.

In IATA's view the ACCC Discussion Paper falls into serious error in the way in which it has approached market identification and as a consequence of this fatal flaw the ACCC Discussion Paper makes assumptions and asserts outcomes in relation to the possible effects of IATA's tariff coordination and interlining which are unsupportable.

Section 4 of this submission sets out IATA's detailed submissions on the legal framework for market definition, the application of the Federal Court's decision in the *Singapore Airlines* case and sets out facts which impact on the analysis in the ACCC Discussion Paper.
7.3 The ACCC has expressed views on markets relevant to the air transport sector in a number of recent determinations. In those determinations, the ACCC concluded that there are three broad markets of relevance to air transport:

- passenger transport;
- freight transport; and
- ticket sales.

**IATA comment**

Prior ACCC decisions on market definition in the air transport sector are specific to the cases then under consideration and are not relevant to this case. Identification of relevant markets is part of a process of making decisions about what really happens, and is likely to happen, to competition in this specific case. This is an exercise that must be based on fact, not on prior ACCC decisions which turn on their own particular facts.

7.4 From those markets the carriage of freight by air transport would not appear a market relevant to IATA Passenger Tariff Coordination.

**Passenger transport market**

**Geographic market**

7.5 The ACCC has consistently distinguished between the domestic and international passenger markets, primarily on the basis of different regulatory environments. Government policy restricts the carriage of passengers between points in Australia to domestic airlines. Government ownership restrictions effectively prevent most foreign international carriers from operating on Australian domestic routes.

7.6 An exception is that the designated airlines of New Zealand may, under a Single Aviation Market Agreement reached between the governments of Australia and New Zealand, conduct operations between points in Australia.

7.7 When examining international air transport passenger markets the ACCC has until recently considered that a regional approach to market definition was the most appropriate approach for many international markets while acknowledging it was not universally applicable.

7.8 In its Determination A30226-7 the ACCC recognised for the first time, as discussed below, separate product markets for business travellers and leisure travellers. While the regional approach was deemed still relevant to leisure travellers a point to point approach was seen as more relevant for business travellers.

**IATA comment**

IATA refers to its comment in relation to paragraph 7.3 above. The identification of geographic markets is to be determined having regard to the facts of the particular case and not to prior ACCC determinations.

---

14 See, for example, Determination No A30202 of 10 May 2000 in relation to Qantas and British Airways, Determination A90791 of 13 November 2002 in relation to the IATA Passenger Agency Program, Determination A30220-2 and A90862-3 of 9 September 2003 in relation to Qantas and Air NZ and Determination A30226-7 of 8 February 2005 in relation to Qantas and British Airways.
7.9 In Determination A30226-7 the ACCC formed the view that there are separate markets for business and leisure travellers on long haul routes. Comfort, travel time and flexibility in making and changing travel arrangements were seen as the primary concerns of business travellers, while leisure travellers were primarily price driven and not sensitive to travel time.

**IATA comment**

IATA refers to its comment in relation to paragraph 7.3 above. The identification of geographic markets is to be determined having regard to the facts of the particular case and not to prior determinations. For instance, in *Re: Qantas* the Tribunal rejected, on the facts of that case, the proposition that there were separate markets for business and leisure travellers. The Tribunal stated that:

>'Where a systematic variation in available competitive alternatives as between different customer types (e.g.: business and leisure travellers) results in a marked discontinuity in substitution possibilities, this may suggest that the suppliers supply one product into a number of distinct customer markets.' (Emphasis added).

In other words, unless the facts support the proposition that a systematic variation in available competitive alternatives results in a marked discontinuity in substitution possibilities, there is no basis for concluding that business and leisure travellers are in different product markets.

---

7.10 The ACCC's view in A30226-7 was formed in response to arrangements between Qantas and British Airways predominantly on long haul operations, between Australia and Europe, including to midpoints such as Singapore and Bangkok. The ACCC indicated that its view in relation to long haul travel should not be taken to imply that there are also separate markets for business and leisure travellers on all routes.

7.11 The ACCC stated that depending on levels of frequency and given the lesser importance of the comfort factor, it is possible that the degree of substitution across fare structures in short haul markets could be significant and point to a single passenger market on those routes. IATA Application A90855 as it relates to Passenger Tariff Coordination, involves fare setting for travel between all points in Australia and all points in the rest of the world.

**IATA's views on relevant markets**

7.12 IATA submitted that its Application related to the international transportation of passengers and cargo by air on scheduled services, from airports in Australia to airports in other countries and from airports in other countries to airports in Australia.

7.13 For the purpose of market definition IATA considered the product to be air transport services which needs to be considered separately in terms of the movement of people and the movement of freight.

7.14 IATA considered the geographic dimension to be worldwide from the viewpoint of airlines as suppliers. Some airlines concentrate on extensive route networks, extended beyond their own services by alliances, code sharing and interlining. Other smaller airlines operate on more modest point to point routes, but nevertheless rely heavily on feed traffic, through interlining, to connect passengers or cargo with their services.
Discussion

7.15 For the purposes of responding to IATA Tariff Coordination the ACCC proposes to adopt an approach to market definition consistent with the views it has expressed in previous assessments it has made involving air transport, with distinction being recognised between:

- international air transport and domestic air transport;
- the carriage of cargo and passengers
- leisure travellers and business travellers.

IATA comment

This paragraph of the ACCC Discussion Paper sets out the approach the ACCC proposes to adopt without any analysis of the facts. It would, in IATA's view, be an error for the ACCC to proceed on this basis, for the reasons explained in Section 4 of this submission.

7.16 Separate products will be utilised for business passengers and leisure travellers on long haul routes, while a single product will be utilised on short haul routes. There are a number of ways in which a distinction could be made between long and short haul routes, including travel time, distance and aircraft type.

IATA comment

This paragraph states an unwarranted and unjustified intention to treat business passengers and leisure travellers as being in separate markets. In IATA's submission there is no evidence of a systematic variation in available competitive alternatives as between those two customer types resulting in marked discontinuity in substitution possibilities. It would therefore be an error to treat business passengers and leisure passengers as constituting separate markets for the purposes of this case.

In addition, paragraph 7.15 states that the ACCC intended to distinguish between international and domestic air transport, but appears to be changing this to distinguishing between short and long haul routes without explanation.

7.17 The ACCC proposes to adopt a criterion whereby routes of over 4,000 kilometres will be regarded as long haul and routes of 4,000 kilometres and under will be regarded as short haul. The 4,000 kilometre route is accessible to non-stop services by narrow bodied aircraft such as Boeing B737-800 and Airbus A320 aircraft commonly used by low cost carriers.

IATA comment

A view that a market can be defined by the distance a particular aircraft group might fly on a leg lacks all credibility as a basis for analytical analysis in relation to market definition.

It presents a static and limited view of low cost carriers, assumes that they all operate aircraft with a 4,000km range, assumes that they do not operate route networks and is contrary to the view formed by the Tribunal in Re: Qantas where the Tribunal explicitly grouped Virgin Blue and Emirates as competitors to Qantas and Air New Zealand for the purposes of market and competitive analysis.
7.18 Where separate business traveller markets are identified the markets will be taken to be point to point in nature.

IATA comment

There is no justification for treating a point to point route as a market. This is contrary to the approach taken by the Full Federal Court in Singapore Airlines and to the approach taken by the Tribunal in Re: Qantas.

For Australian competition purposes markets are to be determined by applying relevant precedent and principle to the facts of the case. IATA points out that there was no basis in fact, precedent or principle for treating markets as delineated on a point to point basis.

7.19 The ACCC's views on separate business and leisure traveller markets do not seem inconsistent with views expressed by IATA at para 10.4 of its submission which reads as follows:

'Although there is no real substitution in terms of mode of transportation, for passengers travelling to or from Australia for leisure purposes there is competition between destinations. Australian leisure travellers, who make up a significant proportion of travellers, choose between overseas destinations and Australian destinations. Overseas travellers choose between Australia and other destinations depending on a range of considerations including price, distance and convenience. There is no real substitute for business travellers except that, at the margin, video conferencing is developing.'

IATA comment

The ACCC Discussion Paper has incorrectly interpreted the statement in paragraph 10.4 of IATA's original submission as supporting the proposition that there are separate markets for business and leisure travellers. IATA's statement contains no such support. Rather, it makes the point that for business travellers there is no real substitute for international aviation and for leisure travellers the position is the same except that leisure travellers may have greater flexibility in destinations.

This statement was made in the context of the view that they are both part of the market for the international transportation of passengers and cargo by air on scheduled services, from airports in Australia to airports in other countries and from airports in other countries to airports in Australia.

Sale of air travel market

7.20 No submissions have been made which suggest the ACCC should depart from its view of the air travel market as expressed in A90408. In that determination the ACCC recognised a market for the sale of air travel to the public where consumers could purchase travel from retail travel agents, airlines and package tour operators. Consolidators were seen as an integral part of the distribution system. The ACCC noted at the time that airlines fill the role of wholesalers to the travel agent industry for air travel as well as retailing travel in their own right.
IATA comment

The ACCC should depart from its view of the air travel market as expressed in A90408 because its views expressed in that case related only to the facts of that case and are irrelevant to this case. As indicated above, markets are to be identified by applying relevant Australian precedent and principle to the facts of the particular case.

7.21 Given the ACCC’s newly recognised distinction between business travellers and leisure travellers on long haul routes the question arises as to whether there is a separate market for the sale of business travel.

IATA comment

There is no separate market for the sale of business travel and, as noted above, that the ACCC would make a serious error if it decided this case on the basis that there are separate markets for business travellers and leisure travellers.

The reasons for this view are set out in earlier comments and in Section 4 of this submission.

7.22 There are travel agents, generally known as travel management companies, which specialise in servicing the travel needs of the business sector and do not sell to the general public. However there is nothing to prevent all parties involved in the sale of air travel from selling to the business sector, and most do. On this basis the ACCC does not believe there is a separate market for the sale of business travel.

8. THE FUTURE WITHOUT AUTHORISATION - THE COUNTERFACTUAL

8.1 As indicated earlier in this discussion paper, the ACCC is required to assess the likely public benefits and anti-competitive detriment arising from the arrangements for which authorisation is sought.

Future 'with-and-without' test

8.2 When identifying and evaluating public benefits and anti-competitive detriment generated by the IATA application, the ACCC is required to apply a 'future with-and-without' test established by the Australian Competition Tribunal (the Tribunal). The test requires a comparison of the public benefits and anti-competitive detriment that the arrangements would generate in the future if the authorisation is granted with the position if the authorisation is not granted. The scenario in which authorisation is assumed not to have been granted is termed the counterfactual.

8.3 When determining the most likely counterfactual in this case, the ACCC is required to assess the extent to which IATA would be likely to continue to engage in the various elements of the conduct covered by the application should authorisation not be granted.
IATA's views on the counterfactual

8.4 While IATA has not specifically addressed the counterfactual in the submission supporting its application, statements made in relation to public benefits provide some insight into IATA's views on the counterfactual.

8.5 At para 23.6 of its submission IATA states:

'Unilateral action by Australia will not, of itself, remove the need for Tariff Coordination. As long as other countries require it, Tariff Coordination will continue. A consequence of denying authorisation for Tariff Coordination in Australia would be that airlines of Australia would be precluded from participating in Tariff Coordination on routes which may affect travel to and from Australia, conducted at the insistence or request of other countries.'

8.6 At para 23.7 IATA states:

'Denying Tariff Coordination authorisation in Australia would remove the opportunity for airlines of Australia to play a moderating role in establishing tariffs which impact their feeder traffic.'

8.7 At para 23.13 IATA states:

'If there were no multilaterally established tariffs, established in advance, then the [interlining] system would fail. Without the certainty that Tariff Coordination brings, the [interlining] system would break down.'

8.8 At para 23.17 IATA states:

'If there were no forum for airlines to meet and establish through fares and rates, the likely result would be that airlines would determine their own through fares and rates for travel limited to their own services but would only offer sum of sector fares and rates for travel interlined with other airlines.'

8.9 At para 23.22 IATA states:

'Without the discipline of having to negotiate IATA fares and rates within the forum of an IATA Tariff Coordination Conference, where airlines large and small negotiate from different viewpoints and with differing economic interests, the constraint [a natural cap on prices] which results would disappear.'

8.10 IATA also examines alternatives to the Tariff Coordination system and the possibility of authorisation subject to limitations. The issue of limitations is addressed later in this paper when the ACCC examines the need for and nature of any conditions that might be imposed on IATA's Tariff Coordination Activities.

8.11 One alternative system examined is a posted price system whereby an airline would publish the price at which it was prepared to offer other airlines an interline facility for the city pair sector on which the airline is prepared to carry interline passengers. IATA has offered views in its submission on why a posted price system would not work and submitted that it would result in the demise of multilateral interlining.

8.12 IATA submitted that it would be possible for airlines to negotiate bilateral agreements, or enter alliances as an alternative to multilateral interlining. However this alternative would lead to reduced consumer choice and give rise to higher transaction costs. IATA submitted that bilateral agreements between airlines continue to be fairly limited in scope and in relation to passenger transportation, based on code sharing. IATA also suggested that airline alliances only provide service to a relatively small number of destinations from Australia.
IATA comment

IATA did not say alliances only serve a relatively small number of destinations from Australia. IATA merely pointed out that despite the growth in the scope of alliances they still only provide coverage of a relatively small number of the more than 3,800 cities in the world with operating scheduled airline services. Any additional destination served by means of IATA interlining provides additional consumer choice.

Discussion

8.13 Under s.45 of the Act a corporation shall not make or give effect to a contract, arrangement or understanding which has the purpose or would be likely to have the effect of substantially lessening competition. Under s.45A of the Act a provision of a contract, arrangement or understanding between competitors which fixes, controls or maintains prices for services is deemed to substantially lessen competition.

8.14 Absent authorisation it is likely that IATA tariff coordination in relation to fares on journeys where interlining is not required to travel by air between a point in Australia and a point overseas would be regarded as price fixing between competitors, a per se breach of s.45 of the Act. It would be expected under these circumstances that the process of IATA Tariff Coordination for such routes, for both inbound and outbound travel, would be discontinued absent authorisation.

IATA comment

This paragraph expresses the view that IATA tariff coordination would be regarded as price fixing and therefore in breach of the Trade Practices Act, for both outbound and inbound travel if not authorised.

Although IATA does not concede that this is a correct interpretation it nevertheless reflects an important reason for granting authorisation. If the Trade Practices Act operates extra-territorially to affect the decisions of other governments in relation to fares sold in their countries on routes to Australia, it brings domestic Australian law in direct conflict with Australia's treaty level obligations.

As the Department of Transport and Regional Services pointed out in its letter dated 13 September 2005, 'tariff provisions with Australia's air services agreements are treaty level obligations that are enforceable under international law.'

IATA points out that any journey to Australia from any one of the almost 3,900 locations in the world with scheduled air services constitutes travel on a route to Australia. The implications of the view expressed in this paragraph are therefore global.

8.15 It might be argued that on some routes where interlining is required for travel by air between one point in Australia and a point overseas that there is no competition between airlines on such routes and therefore no agreement between competitors on those routes and no lessening of competition. On the other hand there could be a potential for competition on individual sectors of an itinerary involving offline travel.

8.16 However such a rationale is not clear cut and may need to take into account competition arising from interlining between alliance members or under commercial bilateral arrangements. Singapore Airlines' online services to Paris, for example, compete with the interline services of Qantas/British Airways and Qantas/Air France.

8.17 IATA seems to suggest in its submission that absent authorisation only Australian airlines would be precluded from participating in Tariff Coordination on routes involving Australia.
The ACCC believes it is likely that absent authorisation all airlines would effectively be precluded from such participation and that routes involving Australia should not appear on any IATA Tariff Coordination Conference agenda.

Issue 1. To what extent would international airlines participate in IATA's Tariff Coordination activities in relation to routes involving Australia if the ACCC does not provide authorisation for those activities?

IATA comment

In summary, as the ACCC Discussion Paper asserts that, because of the per se nature of section 45A of the Trade Practices Act, airlines would breach the Act if they continued to participate in IATA tariff coordination on routes from and to Australia without authorisation, airlines are unlikely to take the risk of civil (and possibly criminal) proceedings by doing so. This is not something the international airline industry should be exposed to. It makes the grant of the re-authorisation IATA is seeking all the more important.

9. EFFECT ON COMPETITION

9.1 It is the task of the ACCC for the purposes of assessing applications to assess the extent to which the relevant conduct results or would be likely to result in a lessening of competition in relevant markets and the detriment that would be likely to result.

9.2 The ACCC normally conducts its assessment on a market by market basis and then forms a view on the conduct overall. In the case of the IATA Tariff Coordination system and the transport of passengers there is a wide range of geographic markets for each of the leisure and business travel passenger groupings and each of those markets may be subject to differing bilateral air service agreements and different degrees of competition between airlines.

9.3 Under these circumstances the ACCC will not attempt to examine every market but will examine the broader competition impact of Tariff Coordination, using specific markets as examples where appropriate.

IATA comment

IATA has submitted above that a market definition based on specific routes does not meet the requirements of Australian law: see Section 4 of this submission.

Without prejudice to that view, IATA notes that no attempt is made the ACCC Discussion Paper to draw a distinction between routes. Instead, the ACCC Discussion Paper attempts an analysis of fares on two routes only - 'Australia - London' and 'Australia - Los Angeles'.

If it were appropriate to identify markets as being route specific it follows that analysis of the different characteristics of routes would need to be undertaken before any conclusion could be reached on the effects on competition with IATA Tariff and Interlining in relevant markets. No attempt is made in the ACCC Discussion Paper to undertake that task even though it is quite clear that the two routes chosen in the Paper could not be regarded as representative of routes worldwide.

IATA's views on the competition effects of Tariff Coordination

9.4 IATA submitted that in the market in Australia for international air services there are no structural impediments to competition other than those resulting from the bilateral air service
regulatory system. There are no structural IATA rules which impede competition and specifically there are no IATA restrictions on:

- the services airlines offer or the destinations to which they operate;
- the capacity or frequency provided by airlines;
- airlines advertising their services;
- the price at which airlines sell their services; or
- the manner in which airlines distribute their products or the intermediaries they use to do so.

9.5 IATA suggested that Tariff Coordination adds to competition. By cooperating with other airlines, whether through alliances, code sharing or Interlining [based on Tariff Coordination], airlines that could not otherwise compete for business in many segments of the market are able to do so against airlines with large route networks offering online services.

9.6 IATA submitted that indicia of a competitive market can be observed in relation to the market for scheduled international services in Australia:

- there are a reasonable number of participants with 48 international airlines competing in the Australian market for the sale of passenger and freight capacity;
- there is a range of competing services with airlines in the Australian market offering a wide range of competing features including in flight and on ground services and a wide range of service standards and add on benefits to passengers in all classes of travel;
- the Australian market features a wide range of competitive prices and analysis undertaken by IATA shows that IATA fares are not constraining that price competition;
- international airlines and travel agents acting on their behalf actively market their passenger services through the press and internet and on television and radio in Australia;
- international airlines operating in Australia actively promote their brand to position the brand in the market and appeal to particular market segments.

9.7 IATA suggested that it is relevant to see whether where airlines are able to compete without Interlining, Tariff Coordination retards that behaviour. IATA submitted that data it has presented establishes that airlines are offering competitive fares in the Australian market and that those fares bear no correlation to fares established through the IATA Tariff Coordination Conferences.

Discussion

Passenger transport markets

IATA competitive market claims

9.8 IATA submitted that indicators of a competitive market for scheduled international services can be seen in Australia through a reasonable number of participants (48 airlines), a range of competing services, competitive prices, active marketing and brand promotion.

9.9 The ACCC does not believe that the overall number of airlines operating to and from Australia provides any guide to the level of competition between international airlines on routes involving Australia. Effective competition analysis needs to be undertaken using objective
market criteria. It is not as if the 48 airlines cited as trading to and from Australia are all in active competition with each other. Some airlines operate in only a small number of markets. Examples would be United Airlines on the North America route and Pacific Blue on the trans-Tasman and Pacific Island routes. Some markets while seeming to have many participating airlines only have limited competition. Travel between Australia and Hong Kong, for example, is serviced by many carriers out of Australia on a sixth freedom basis (e.g. Singapore Airlines, Thai Airways and Malaysian), but prior to Virgin Atlantic's recent entry into the market there were only two carriers (Qantas and Cathay Pacific) providing direct services and they carried most passengers on the route.

IATA comment

The IATA submission was that the structure and performance of the market in Australia demonstrated that the market is very competitive. Indicia of this fact, discussed in IATA's original submission, were the market structure, the number of participants, their conduct in the market, the range of competitive services they offer, the way in which they actively market their products and the range of competing services they offer.

It is surprising to note the conclusion in this paragraph that "the overall number of airlines operating to and from Australia provides any guide to level of competition..." This view is contrary to accepted competition theory and to the market concentration analysis contained in the ACCC's merger guidelines: see ACCC Merger Guidelines paragraphs 5.87 - 5.103.

With reference to the sentence: "It is not as if the 48 airlines cited as trading to and from Australia are all in active competition with each other. Some airlines operate in only a small number of markets." IATA submits as follows:

- The ACCC Discussion Paper has adopted an unduly narrow definition of relevant markets.

- The statement indicates a narrow view of the number of airlines that compete on any given route. For instance, as Table 4A in Section 4 of this submission shows, on 13 September 2005 there were 30 airlines offering 322 fares for sale in Australia to passengers on the Sydney - London route. If the analysis were expanded to cover all of Australia the number of airlines and fares would, of course, increase.

- The IATA interlining system allows every airline, including those that do not service Australia directly, to offer service on each route if the airline wishes to do so. Thai International made that point in its letter to the ACCC in November 2004, a point reinforced by United Airlines and Qantas when representatives of those airlines were interviewed by ACCC representatives.

- As the Federal Court pointed out in Re Ansett, not all competitors can test the entire market and as the Tribunal pointed out in re Qantas, niche in the airline industry can expand their market shares where there are no supply or demand side factors that hamper their expansion. Competition at the margin can quickly spread given the right incentives.

The suggestion that United Airlines may only compete on the North American routes is also incorrect. The airline is an active participant in providing services on routes to numerous destinations in Europe and Central and South America.

In support of the proposition that some markets only have limited competition paragraph 9.9 refers to travel between Australia and Hong Kong and draws a distinction between third and fourth freedom carriers and fifth and sixth freedom carriers. IATA makes the following points in response:

- Inherent in this statement is an assumption that all passengers on the route between Australia and Hong Kong originate in Australia and have Hong Kong as their destination.
This is an incorrect assumption.

- For many passengers on the route who originate in Australia, Hong Kong is gateway to Europe and China. Alternative gateways including Singapore, Bangkok, Seoul and Tokyo provide direct competition.

- Passengers who have Hong Kong as a destination do not all have Hong Kong as their only destination. For those travelling to a number of destinations which include Hong Kong, airlines serving for instance Japan, China, Korea, Singapore, Thailand and the Philippines provide competitive alternatives depending on the required destinations.

Those passengers for whom Hong Kong is the only destination have a range of service alternatives over other gateways which provide them with a significant range of airlines allowing them to make the choice that best suits their needs having regard to price, schedule, seat availability, etc. As the Tribunal pointed out in re Qantas, competition at the margin is important and constant renewals of competitive initiatives, either in response to those developed by rivals or developed as part of a new strategy, can be expected to occur on all of these routes to the lasting benefit of travellers.

9.10 IATA also claimed there was a wide range of competitive prices in the Australian market which were not constrained by IATA fares. The ACCC believes that a significant contributor to the level of prices is the level of competition in particular markets, rather than generally. Some markets involving Australia, such as the trans-Tasman market and the Europe leisure traveller market seem reasonably competitive while other markets such as the North America and South Africa markets have lower levels of competition.

### IATA comment

IATA disputes that the Australia - North America routes and the Australia - South Africa routes are routes that "have lower levels of competition". This is an assertion made in the ACCC Discussion Paper without any factual support.

9.11 IATA has undertaken a review of fares offered for travel to a range of destinations around the world to determine the extent to which airlines offering passenger services from Australia are offering fares at prices different to those fares established in IATA Tariff Coordination Conferences. From this analysis it concludes that airlines are offering competitive fares in the Australian market and that those fares bear no correlation to fares established through the IATA Tariff Coordination Conferences.

9.12 The IATA review of fares is a point in time review in the sense that it compares market fares on offer for a route in the various classes at a specific point in time with IATA fares for those classes at the same point in time. IATA cites inconsistency in the differences between the market fares and IATA fares across airlines when claiming there is no correlation between IATA fares and market fares.

9.13 The ACCC believes a longitudinal approach should be preferred over a point in time approach for such a review of fares. A longitudinal approach enables changes in IATA fares to be tracked against changes in market fares over time. A point in time analysis would only reveal a correlation if all airlines discounted IATA fares by a similar amount to obtain market fares. It is possible different airlines could discount IATA fares by different amounts while still using the IATA fare as a benchmark. Such benchmarking would not be picked up by a point in time analysis. For economy class fares point in time analysis is also affected by airline yield management practices with the market fare for any flight at any point in time dependent on demand for that flight.
IATA comment

IATA accepts that a longitudinal analysis properly conducted, provides an opportunity to observe whether there is a coincidence between IATA fares and market fares on specific routes. Whether or not any such analysis is of use may be another question.

First, any such analysis needs to be relatively contemporaneous. The airline industry is a dynamic fast moving industry. It would be an error to make assumptions of what might happen in 2005 and beyond based on analysis of what happened 5 or 10 years ago.

Secondly, the analysis needs to be sufficiently comprehensive. Selecting one or two routes is not sufficient even if they are routes that might be assumed to be representative of all routes.

Third, any such analysis on a route by route basis can only be one input to the broader question which is required to be answered - what is the overall effect of the relevant conduct on competition in the future likely to be?

9.14 To the extent possible from data available the ACCC will adopt a longitudinal approach to examining any linkage between IATA fares and market fares.

Information sharing

9.15 The Provisions for the Conduct of IATA Traffic Conferences indicate that the sharing of information, especially in relation to costs, is an essential part of the tariff coordination process.

IATA comment

Airlines do not share information on costs on specific routes at meetings of IATA Tariff Coordinating Conferences. Information sharing is not, of itself, something to criticise: see Section 6 of this submission.

9.16 The Terms of Reference for Tariff Coordination Conferences state 15:

'Subject as hereinafter provided each Passenger Tariff Coordination Conference shall concern itself with the analysis of relevant operating costs and take action to develop fares and related conditions in respect of the area of authorisation of such Conference.'

IATA comment

The Costs Committee has not existed for at least 15 years. See IATA comment to ACCC paragraph 3.16 above.

15 IATA Handbook Part 1, July 1999, Page 93
Moreover the IATA Tariff Services Handbook, Issue 1 of 1 July 1999, specifically identifies as a benefit to airlines from attending IATA Tariff Coordination Conferences the gaining of 'access to market knowledge':

'Participation in Tariff Coordination opens the door to sharing in the exchange of market and other types of information required to intelligently price passenger and cargo tariffs.'

The submission accompanying Application A90855 also indicated that when making proposals to IATA for consideration at IATA Traffic Conferences airlines as a matter of course have regard to the effect of their proposals on profitability. Footnote 100 to the submission states:

'Before any Conference meeting a route profitability analysis is undertaken, including a sensitivity analysis, and a negotiating brief prepared and approved by senior management. This forms the basis of the airline's negotiating position at the Conference meeting.'

The ACCC believes it is a matter for concern and could result in a lessening of competition in passenger transport markets where airlines meet and exchange information on costs on specific routes and as a result of those interchanges and with a view to increasing their profitability make agreements on prices to apply to routes. The concern would apply especially to those routes featuring direct or online service and where there is no particular need for interlining to occur.

IATA comment

The theoretical concern expressed in paragraph 9.19 is unjustified.

IATA tariff coordination has been in existence, originally as a government requirement, since 1949. It has been authorised in Australia since 1974 and was the subject of a major public review by the then Commission in 1983-4. It has been the subject of public examination by the ACCC since 2000. In all that time no evidence has been submitted to justify the theoretical concern expressed in this paragraph. There is not even any evidence of a complaint in all that time about such a possibility.

The suggestion made in paragraph 9.19 implies that IATA and the airlines do not comply with their legal obligations to ensure that inappropriate conduct does not occur at meeting of IATA Tariff Coordinating Conferences. IATA categorically rejects that implication.

Not only is there no evidence justifying this concern but all evidence is to the contrary. It is inherently unbelievable that, in an industry as dynamic as the international aviation industry, that airlines would need to conspire at meetings of an IATA Tariff Coordinating Conference in the manner suggested.

This issue is dealt with in detail in Section 6 of this submission, but in summary:

- Information about fares and conditions are readily available, on a daily basis, in Australia for all routes. No one needs to go to an IATA meeting to find out what they are.

- IATA meetings occur only once or twice per year. If an airline were to wait for an IATA meeting to determine its competitive strategy it would not be in operation for very long.

- In major airlines the people who go to an IATA meeting are not necessarily those directly responsible for settling the airline's competitive fares and conditions. They are people who, on instructions from their airlines, represent the airline at meetings for the purpose of establishing appropriate interline fares which take account of the features of the interlining product.
9.20 The ACCC notes that the airline representatives at IATA Tariff Coordinating Conferences are likely to be the tariff experts within their companies and involved generally in the setting of market tariffs and developing fare strategies in an environment where many airlines have acknowledged in submissions that IATA agreed fares are used for benchmarking market fares, as a basis for discounting, and for the setting of fares for code share and prorate purposes.

9.21 Under these circumstances, while there may not be any explicit agreement on market fares between airline representatives at IATA Tariff Coordination Conferences, it is likely given the roles of the representatives, the clearly stated objectives of the conferences and the matters being discussed that the sharing of knowledge that occurs could be conducive to coordinated conduct in relation to market fares and would not be in the interests of competitive air passenger markets.

**IATA comment**

For the reasons set out above and in Section 6 of this submission this theoretical concern should be dismissed.

IATA also points out that the relevant test is not whether there is a theoretical possibility of something happening. Before the ACCC can take a matter into account there must, in terms of section 90 of the *Trade Practices Act*, be a detriment that 'would result, or be likely to result'. Theoretical possibilities do not satisfy the relevant test.

**Issue 2: Why would it be unreasonable to regard the sharing of knowledge between competing airlines at IATA Tariff Coordinating Conferences as resulting in a lessening of competition between airlines?**

**IATA comment**

In summary, it would be unreasonable for the ACCC to form the view that IATA Tariff Coordinating Conferences result in a lessening of competition between airlines, whether as a result of information sharing or otherwise, because all evidence is to the contrary.

Transparent pricing is an indicator of an open and competitive market. All evidence supports the fact that there is full, open transparency on each airline's market fares. Market fares are openly published within the industry. That occurs (and will continue) regardless of IATA Tariff Coordinating Conferences. IATA conference staff are aware of the anti-trust implications and take great care to ensure that any knowledge-sharing is appropriate.

Unsubstantiated theoretical arguments should not form a basis for the ACCC to decide this application.
Non-IATA fares

9.22 The ACCC would be particularly concerned if changes to IATA fares agreed between airlines at IATA Tariff Coordinating Conferences resulted in changes to non IATA fares in passenger travel markets. As noted above, IATA has submitted on the basis of a single point in time comparison of market fares with IATA fares, that there are no linkages between IATA fares and market fares.

9.23 The ACCC believes that any correlation between changes in IATA fares and market fares would only be evident in a longitudinal analysis. The ACCC has accordingly undertaken an analysis of movements in IATA fares and market fares over time on a number of routes in order to ascertain whether there is any evidence of correlation between those movements.

9.24 The analysis was conducted using fares obtained from an independent source, the Agents' Support Manual, which shows both IATA fares and market fares available to the public at the same time through travel agents. The information available to the ACCC covers the period from mid 1994 to mid 2001. Fares for later periods were not able to be accessed. In general the IATA fare is a commissionable fare and includes travel agent's commission (of around 9%). The airline fare is a net fare meaning it excludes any travel agent margin. Sometimes there are apparent gaps in the analysis for fares for individual airlines. In such cases the airline did not offer a relevant fare at the time.

IATA comment

IATA has obtained and analysed data from those parts of the Agents Support Manual to which the ACCC referred in preparing the information that follows. IATA has done so for the purpose of checking and validating the ACCC's analysis.

IATA has attempted to obtain from the airlines accurate details of their net fare offerings for the period from mid 1994 to mid 2001 to check the accuracy of the information on which the ACCC has relied. Unfortunately that information is not available. IATA has therefore not tested the ACCC's work. It has proceeded on the assumption that the net fares shown in the Agents Support Manual are accurate but without admission that the assumption is correct. There are four primary reasons for this reservation. They are as follows:

- The fares shown as IATA fares in the Agent Support Manual are wrong. The ACCC used the incorrect information in the Agent Support Manual for its analysis rather the correct data which IATA provided to the ACCC on 22 April 2005.
- IATA has not been able to independently verify the data with the airlines.
- The information which IATA has been able to access from the Agent Support Manual sheets provided to it is incomplete in a number of respects. It does not include all airlines operating on the relevant routes. There are gaps in the data.
- The data is quite old.

9.25 In the first instance the ACCC has examined fares on the route between Australia and the United Kingdom. Figure 9.1 below shows movements in first class return fares between Australia and London.

IATA comment

IATA's comments on this and subsequent paragraphs dealing with the route between Sydney and London are set out in Section 7 of this submission.
For the reasons set out above and in Section 7 of this submission, IATA submits that all of the information that follows in paragraphs 9.26 and 9.35 should be disregarded.

9.26 It can be seen from Figure 9.1 that while the levels of first class fares differed between airlines, where changes occurred in individual airline's fares they were generally associated with an agreed change in the IATA fare. The fares of Qantas in particular can be seen to closely track changes in IATA fares. Between May 1994 and May 2000 the IATA first class return fare between Australia and London rose by 53%. In the same period the Qantas first class fare rose by 53% and the Cathay Pacific and Singapore Airlines fares rose by 47%.

9.27 The ACCC believes that on the basis of the above analysis it would be reasonable to conclude the agreement between airlines of IATA first class fares at IATA Tariff Coordinating Conferences contributes to the setting of market first class fares by individual airlines between Australia and London. The ACCC also notes that this is a point to point route with no need to interline to reach the destination.

Figure 9.1 First class return fares between Australia and London

9.28 Figure 9.2 below compares movements between IATA and market business class return fares between Australia and London. The ACCC believes that Figure 9.2 shows evidence of linkages between IATA business class fares and market business class fares offered by airlines on the United Kingdom route. Market fares track IATA fares in terms of the timing and quantum of fare changes for long periods.
9.29 The approach used for analysing first and business class fares is not especially suitable for the examination of any IATA agreed fare influence on discount economy fares given additional seasonality and airline yield management factors. An economy fare will generally vary dependent on the time of travel and booking. First class and business class fares are generally unaffected by such factors. Accordingly a different approach has been adopted for examining discount economy fares.

9.30 It is likely that if there are any linkages between IATA fares and discount economy fares that they will be most evident at peak periods when demand and the ability of airlines to charge higher fares are both at high levels.

9.31 Figures 9.3 and 9.4 below examine IATA excursion fares and airline discount return economy fares for travel between Australia and London in the peak period at the end of June. Fares utilised are as at four months before departure and three weeks before departure.

9.32 The figures show that while IATA excursion economy fares for travel in June increased between 1995 and 2001 (by 23%), discount economy fares actually fell over the period for all the airlines examined (for example by 13% for Qantas bookings made in February and 15% for bookings made in June).

9.33 The limited analysis undertaken suggests that market economy fares offered by airlines on the route do not appear to track changes in IATA excursion economy fares. However the manner in which airlines set economy fares through their yield management systems is such that the analysis need not necessarily be regarded as conclusive for all economy fares at all times.
Figure 9.3 Discount economy fares between Australia and London four months before departure on 30 June

Figure 9.4 Economy fares between Australia and London four weeks before departure on 30 June
9.34 Within the economy fare class airlines set a range of prices geared at one extreme (the highest fare) to last minute business passengers and at the other (the lowest fare) to price sensitive leisure passengers. Between these two extremes lays a range of fares at different amounts with varying conditions attached, with the fare generally increasing in price the more flexible the conditions attached to the fare. Air NZ has stated, for example, that most airlines have the capacity to use up to 26 fare levels in the economy class.

9.35 The analysis above has attempted through its focus on peak period travel to isolate times of the year when linkages between IATA and market economy fares are most likely to be evident. However such linkages might be repressed at times of strong competition in markets or when airlines are required to lower prices in response to reduced demand (as result of exogenous events) or when capacity surpluses emerge. It is possible that while linkages are not evident now they could emerge at other times when demand pressures or the competition environment are to the advantage of airlines.

9.36 The ACCC notes in particular that United Airlines submitted that IATA fares constitute a pricing framework for an airline. The extent to which airlines use IATA fares for benchmarking the range of economy fares utilised by their yield management may not be apparent given day to day fare levels are dependent on yield management perceptions of demand on particular flights. Any IATA fare benchmarking role may only become apparent in markets or periods different to those analysed by the ACCC.

**IATA comment**

IATA objects to the statement that 'United Airlines submitted' any of the information attributed to it in this paragraph. United Airlines has not made any separate submission to the ACCC in this matter. This and other paragraphs in the ACCC's Discussion Paper have taken general comments apparently made in interviews between ACCC representatives and airline representatives and presented them as submissions by the airlines concerned.

This is notwithstanding that the interviews appear to have all been general in nature, with wide ranging but incomplete discussion of a range of topics and held without the benefit of any data. They would best be described as meetings in which the interviewees were assisting the ACCC representatives, in a general sense, to understand the context of the IATA application, rather than providing factual evidence. The records of meeting cannot be regarded as submissions and the information summarised in them is of little probative value.

Paragraph 9.36 gives particular emphasis to the statement about the role which IATA fares may play as a "pricing framework" for an airline. This is a further example of the way in which the ACCC's Discussion Paper has taken a general statement made in a meeting and purported to turn it into a submission by the airline concerned.

In order to help the ACCC by providing general background, at the meeting United Airlines gave a general overview of the industry and IATA's role in it. At the start of the discussion, according to the record of meeting, Mr Pearse made a general statement about the IATA system providing 'a framework around which commercial transactions occur'. He also made it clear that 'within that framework, airlines compete on price. He also made the general comment that IATA tariffs constitute a framework but that this does not mean that United will sell at that price.'

United Airlines has clarified the context of those comments and confirmed that the comments were made in the context of an overall explanation that, although the IATA tariff coordination system (particularly the composite resolutions) provides a framework around which commercial transactions

---

16 Page 8, Statement of John Harrison of 8 March 2004 to the Australian Competition Tribunal in the matter of a review of the ACCC determination declining authorisation for an alliance between Qantas and Air New Zealand.
occur, within that framework airlines compete fiercely on a range of metrics including price and service levels. United Airlines sets its own fares for the Australian market. It does so proactively taking into account market conditions, forward bookings and the way in which United wishes to position its products in the Australian market. Those fares are set, and changed, by United Airlines in Australia. None of United’s Australian staff attend meetings of IATA Tariff Coordinating Conferences. That is a head office function.

9.37 The ACCC has also examined fares on the route between Australia and the United States through an analysis of Agents’ Support Manual fares between Australia and Los Angeles. Results from this analysis appear in Figure 9.5 below which shows that movements in airlines’ business class fares correlate in terms of timing and quantum with movements in business class fares agreed at IATA Tariff Coordination Conferences. Between September 1994 and January 2001 IATA business class fares between Australia and Los Angeles increased by 43% while individual airlines business class fares increased by similar amounts, Qantas by 46%, Air NZ by 41% and United Airlines by 45%.

IATA comment

IATA’s comments on this and subsequent paragraphs dealing with the route between Sydney and Los Angeles are set out in Section 7 of this submission.

For the reasons set out above and in Section 7 IATA submits that all of the information that follows in paragraphs 9.37 to 9.45 should be disregarded.

9.38 The ACCC believes that this analysis provides good reason to conclude that business class fares for travel between Australia and Los Angeles agreed at IATA Tariff Coordination Conferences are reflected in business class fares sold by airlines on that route.

Figure 9.5 Business class return fares between Australia and Los Angeles

9.39 The ACCC has also examined movements in IATA and airline economy fares offered on flights between Australia and Los Angeles using the same approach used on the United Kingdom route. Figures 9.6 and 9.7 below compare IATA super APEX economy fares with airline super APEX economy fares available in the first week in February and the first week in June for travel on 30 June, in peak season.
9.40 Super APEX fares are the lowest economy fare category offered by airlines between Australia and the United States. Other fare categories are APEX (or VALUPAC) and Excursion. The fare categories differ in terms of conditions relating to matters such as stopovers, period of stay and ticketing.

Figure 9.6  Super APEX economy fares between Australia and Los Angeles four months before departure on 30 June

Figure 9.7  Super APEX economy fares between Australia and Los Angeles four weeks before departure on 30 June

9.41 Figures 9.6 and 9.7 suggest that for the first two or three years shown the IATA agreed fares may have been a factor in the setting of super APEX economy fares with airlines regularly increasing fares in line with the equivalent IATA fares.

9.42 From mid 1998 onwards airline super APEX economy fares reduced significantly while IATA fares in general continued to increase steadily. Figure 9.7 shows that overall IATA super APEX economy fares on the route increased between June 1995 and June 2001 (by 13%). Over the same period airline super APEX economy fares on sale in early June for travel at the end of June fell significantly (Qantas fares by 22% and those of Air NZ and United by 19%).

9.43 The super APEX fare is at the bottom end of economy fares offered by airlines. ACCC saw value in also examining the higher price excursion fares category on the route between Sydney and Los Angeles on the basis that linkages between IATA fares and airline fares might be closer for higher price economy fares than lower price fares. A key difference between the
excursion fare and the two forms of APEX fares is that the conditions of the Excursion fare allow a stay in the United States of up to six months while the super APEX and APEX fares allow stays of up to two and three months respectively. In other words a traveller wishing to stay over three months will be required to purchase an excursion fare.

9.44 The results of the analysis of excursion fares appear in Figures 9.8 and 9.9 below. It is apparent that movements in airline excursion fares track the direction of movements in IATA excursion fares. This is particularly noticeable because the IATA agreed excursion fare on this route, unlike IATA fares on many other routes, sometimes falls in value. The ACCC believes that Figures 9.8 and 9.9 demonstrate a strong correlation between changes in IATA agreed excursion fares and changes in excursion fares offered in the market by airlines.
The ACCC considers that on the basis of the above analysis there is reason to believe that the process of IATA Tariff Coordination leads to a lessening of competition between airlines when setting their own non-IATA fares for travel on point to point routes, especially for travellers purchasing first class tickets, business class tickets and economy class tickets in higher fare categories. The ACCC suggests that this lessening of competition could give rise to detriment in the form of higher prices for business travellers in most geographic markets. Airline documents provided to the ACCC which attribute market fare increases to IATA Tariff Coordinating Conference outcomes further support this view.

**IATA comment**

IATA has not been provided with the airline documents that the ACCC describes as attributing market fare increases to IATA Tariff Coordinating Conference.

For the reasons set out above and in Section 7 of this submission the analysis is flawed and does not support the conclusion that the process of tariff coordination leads to any lessening of competition between airlines whether when setting their own fares or otherwise.
**Issue 3**

On the basis of the material presented why would it not be reasonable to draw the conclusion that airline market fares for first class, business class and higher economy fares can be affected by the actions of competing airlines in setting fares at IATA Tariff Coordinating Conferences?

If it is not the IATA fare that is the factor causing the parallel movements in first class, business class and higher economy fares, what is the factor and why does that factor not affect discount economy fares?

---

**IATA comment**

In summary, it would not be reasonable for the ACCC to draw the conclusion that airline market fares for first class, business class and higher economy fares can be affected by the actions of competing airlines in setting fares at IATA Tariff Coordinating Conferences because the evidence is to the contrary. The analysis in the ACCC Discussion Paper is seriously flawed.

Notwithstanding that IATA provided the ACCC with the relevant IATA fares on 22 April 2005 in response to an ACCC request, the fare analysis in paragraphs 9.27-9.44 does not use the correct IATA fares. In addition, no attempt was apparently made in preparing the ACCC Discussion Paper to do a simple Granger test on the data. Such a test using the correct data would not have supported the hypothesis that IATA fares are a factor in causing parallel movement in market fares in Australia. In any event no such parallel movement occurs.

Furthermore, a straight comparison of IATA fares on any given route and market fares offered by an airline for online transportation on the route is not a 'like with like' comparison. The IATA product allows multiple stopovers and transit points not available with online point-to-point fares, as well as the flexibility to change routing, cancel sectors, etc.

---

**Seasonality**

9.46 The ACCC has noted that while IATA first class, business class and full economy IATA fares are not subject to seasonal change some IATA economy fares agreed by airlines at IATA Tariff Coordination Conferences vary according to seasons also agreed at the Conferences. At the TC23/TC123 Conference, for example, airlines agreed seasonal fare periods which would apply for travel from Australia to Europe from 1 April 2004 as follows:

- 25 Mar - 27 May: shoulder 1 season fare
- 28 May - 15 Aug: peak season fare
- 16 Aug - 19 Sep: shoulder 1 season fare
- 20 Sep - 03 Oct: shoulder 2 season fare
- 04 Oct - 11 Nov: basic season fare
- 12 Nov - 25 Nov: shoulder 2 season fare
- 26 Nov - 02 Dec: shoulder 1 season fare
- 03 Dec - 24 Dec: peak fare
- 25 Dec - 02 Jan: shoulder 1 season fare
- 03 Jan - 16 Jan: shoulder 2 season fare
- 17 Jan - 24 Feb: basic season fare
- 25 Feb - 24 Mar: shoulder 2 season fare
IATA comment

It is appropriate to put the seasonality issue in context in case it has been misunderstood. In the late 1960s, at a time when most air services agreements and government policy required tariffs to be established through IATA and approved by governments, BOAC (a predecessor airline to British Airways) developed a proposal for an advance purchase excursion fare (APEX) which, as the name implies, was intended for travellers who purchased their tickets 60 or 30 days in advance and travelled in economy class. The fares were round trip fares. Unlike normal IATA fares, these fares were for travel between two points without stopovers but were interlineable at the turnaround point.

The proposal was accepted and APEX fares have become part of the IATA tariff system and remain so today. Subsequently, an additional type of excursion fare (PEX) was developed by the airlines which had the same features as APEX fares except that there was no advance purchase requirement and the fare had to be paid and the ticket issued on booking, or within 24-72 hours. These types of fares are categorised in the IATA system as IATA special fares.

All IATA fares are established and reviewed on an annual basis and most, on Australia – Europe routes, have a twelve month maximum validity period.

When IATA special fares were developed it was recognised that, given the twelve month validity, capacity is not unlimited and that there are demand peaks and troughs. Rather than set one fare for the entire year, airlines sought to match IATA special fares with the demand cycles. This resulted in, for example, different basic, shoulder and peak season fares.

As IATA special fares are interlineable, it follows that these fares need to be established so that interlining could occur without disruption and so that the airlines had a basis for pro-ration where that occurred.

The basic, shoulder and peak season periods and the IATA special fares that apply in relation to them are established for interline purposes only. There are no arrangements or understandings between airlines that they will apply either the seasonality periods or the fares for their own online services and they do not do so.

9.47 The Conference agreed excursion fares for travel from Sydney to Europe, for example, for each seasonal period. Excursion fares allow side trips en route using different airlines. IATA excursion fares agreed for travel from Sydney to London for each season for the period from 1 April 2004 until changed were as follows:

<table>
<thead>
<tr>
<th>Season</th>
<th>Fare</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peak season</td>
<td>$4,013</td>
</tr>
<tr>
<td>Shoulder 1 season</td>
<td>$3,764</td>
</tr>
<tr>
<td>Shoulder 2 season</td>
<td>$3,513</td>
</tr>
<tr>
<td>Basic season</td>
<td>$3,136</td>
</tr>
</tbody>
</table>

9.48 Harvey World Travel (HWT), one of Australia’s largest travel agency groups advised the ACCC that IATA excursion fares are not very useful and HWT would not offer them as it can offer cheaper fares to consumers. Excursion fares were described as rarely sold. Amex advised the ACCC that the number of people using excursion fares would be very small and the level of those fares acts as a disincentive for people to use them. Qantas acknowledged to the ACCC that excursion fares are no longer used in Australia.
IATA comment

Before dealing with the statements attributed to third parties in this paragraph, IATA repeats the point that the records of meeting provides merely a summary of general discussion. The information summarised in them is of little probative value.

The record of meeting with Harvey World Travel discloses what appears to be a general response by the HWT representative to a question posed by the ACCC representative concerning IATA excursion fares between Australia and the United Kingdom. It was in the context of that route only that, according to the record of interview, the comment about excursion fares being rarely sold by Harvey World Travel was made. Even then, the record of meeting discloses that Harvey World Travel regards IATA excursion fares on that route as useful for ticketing purposes.

Turning to the record of meeting with American Express, that record does not support the statement attributed to American Express in paragraph 9.48. It is clear that when expressing a view on the number of passengers using excursion fares, the American Express representative was referring specifically to the Sydney to London route. It is not surprising that very few of American Express customers would use excursion fares on that route because, as noted in the record of interview, American Express’s clients are essentially corporate clients and 70% of the tickets sold by American Express are in first and business class.

Turning to the statement attributed to Qantas, the record of meeting, like those relating to others the ACCC representatives interviewed, provides merely a summary of general discussion. The information summarised in them is of little probative value.

Although the record of meeting contains the entry ‘AF agreed that excursion fares are no longer used’, the context in which that statement was made is unclear because the proposition with which Mr Froude is reported to have agreed with has not been transcribed nor has the person who apparently made the statement been identified. In any event, since that record of interview, in a letter dated 27 October 2005 Qantas has advised the ACCC that further analysis tends to show that the use of IATA fares on other routes is considerably higher than on the JSA routes.

IATA excursion fares do not therefore seem to make a significant contribution to travel markets. The ACCC has concerns however that they do provide a means by which airlines can agree seasonality periods at Tariff Coordinating Conferences and those seasonality periods can be applied by airlines to their discount economy fares, ie to non IATA fares.

IATA comment

For the reason set out in IATA’s comment to ACCC paragraph 9.48 the conclusion that IATA excursion fares do not seem to make a significant contribution is not substantiated. In fact, the opposite seems to be the case.

Table 9.1 below examines movements in discount economy fares offered by airlines across IATA agreed seasons.

Table 9.1 shows that for the four airlines examined, which accounted for over 70% of passenger traffic between Australia and the United Kingdom in 2003, there was a substantial increase in discount economy fares between seasonal periods. It appears that while the airlines are competing, they compete within agreed price plateaux.
IATA comment

The statement that ‘while the airlines are competing, they compete within agreed price plateaux’ expresses an unsubstantiated opinion apparently based on a static observation of fares posted on websites on 21 January 2005.

The observation provides no justification for the stated proposition – that the airlines only compete within 'agreed price plateaux'.

Table 9.1 Discount economy air fares offered by airlines on their web sites on 21 January 2005 for return travel from Sydney to London, leaving on nominated dates and assuming 14 days between departing and return flights.

<table>
<thead>
<tr>
<th>Airline</th>
<th>Basic season</th>
<th>Shoulder 2 season</th>
<th>Shoulder 2 season</th>
<th>Shoulder 1 season</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Travel on 23 Feb</td>
<td>Travel on 24 Feb</td>
<td>Travel on 25 Feb</td>
<td>Travel on 26 Feb</td>
</tr>
<tr>
<td>Qantas</td>
<td>$1,894</td>
<td>$1,894</td>
<td>$2,074</td>
<td>$2,074</td>
</tr>
<tr>
<td>Singapore Airlines</td>
<td>$2,007</td>
<td>$2,297</td>
<td>$2,447</td>
<td>$2,447</td>
</tr>
<tr>
<td>Emirates</td>
<td>$2,201</td>
<td>$2,201</td>
<td>n.a.</td>
<td>$2,345</td>
</tr>
<tr>
<td>Cathay Pacific</td>
<td>$2,148</td>
<td>$1,905</td>
<td>$2,409</td>
<td>$2,409</td>
</tr>
</tbody>
</table>

n.a. No seats were available on flights on these days.

9.52 KLM submitted that it applies seasonality to its special economy fares and in doing so generally follows the IATA seasonality because the factors that are relevant in determining seasonality for IATA fares are also relevant to their own fares. KLM does not always follow IATA seasonality for market reasons.

IATA comment

KLM's letter dated 21 December 2004 has not been accurately described in this paragraph. KLM stated that:

- It does not use seasonal surcharges;
- It only applies IATA seasonality to special economy fares. Where those special economy fares are IATA special fares, the airline applies the agreed seasonality for the reason set out above, otherwise its fares are market driven and seasonality is determined by the airline having regard to the requirements of the market.

This is, of course, what would be expected of an airline in a competitive market.

9.53 Lufthansa submitted that seasonality periods are a feature of international aviation and tourism and reflect demand.
This paragraph does not accurately describe what Lufthansa stated in its letter dated 6 October 2004. In response to the ACCC's question in relation to seasonality periods, Lufthansa advised that it does not apply seasonal surcharges. Its market pricing reflects normal supply and demand considerations. As far as Lufthansa is concerned, different demand periods are reflected in the airlines pricing levels.

This is, of course, what would be expected of an airline in a competitive market.

9.54 **Philippine Airlines** submitted that it does not apply the seasonality periods agreed at IATA Tariff Conferences to its fares. Seasonality periods are based on demand.

9.55 **Qantas** advised that seasonality agreed at IATA tariff coordination conferences is by and large carried through to non-IATA fares, but may be adjusted to reflect market conditions. Qantas believed that IATA agreed seasonality generated no detriment as without seasonality fares would still increase when demand is high.

IATA comment

In its letter to the ACCC dated 9 February 2005, Qantas stated, in relation to a question on seasonal periods, that it generally applies seasonality factors throughout the entire fares structure and that competitive conditions determine the fare levels rather than recognised seasonality periods. Qantas also made the point that it cannot comment on how other airlines determine their fare levels.

This is, of course, what would be expected of an airline in a competitive market.

This letter followed the meeting between ACCC representatives and Qantas on 9 December 2004 and should therefore be regarded as stating Qantas’ considered response on that issue. Although the record of meeting discloses that the issue was discussed, the substance of the answer provided in that meeting appears consistent with the Qantas letter, although the context in which the issue was addressed in the record of meeting is not clear.

9.56 **Singapore Airlines** indicated that in many cases it does apply the same seasonality periods as have been agreed at IATA Tariff Coordinating Conferences in its own economy fares. This is because the factors that make a seasonality period suitable for a particular IATA fare are often equally applicable to its own fares.

9.57 **South African Airways** (SAA) submitted that in pricing its own fares it may or may not apply IATA seasonality periods. Fares are based purely on demand/supply forecasts and are dependent on a number of initiatives by an airline's ability to manage its inventory in a manner that maximises its capacity and yields on each of its routes.

IATA comment

The summary in this paragraph does not adequately reflect the letter from South African Airways dated 26 November 2004. In that letter, in response to a question from the ACCC about seasonality periods, the airline stated that it ‘does not apply the seasonality periods agreed at IATA tariff coordination conferences’. It also stated that fares are based purely on demand/supply forecasts and are dependent on a number of initiatives by the airline and on its ability to manage its inventory in a manner that maximises its capacity and yields on each of its routes.

This is, of course, what would be expected of an airline in a competitive market.
9.58 *United Airlines* stated that IATA seasonality only provides crude seasons. In the absence of IATA agreed seasonality airlines would have the same form of seasonality with blocks of pricing and the seasonality would be broadly similar across airlines.

**IATA comment**

IATA has expressed the view, above, that the record of meeting with United Airlines and others is of no probative value having regard to the nature of discussions and the inadequacy of the record.

It is clear from the record of meeting with United Airlines that, all that Mr Pearse did was make a comment about seasonality that is clearly general in nature but clearly carries the implication that United Airlines does not pay much attention to IATA seasonality. It sets its own prices and seasonality periods according to market requirements.

9.59 *Amex* considered that having set seasons provides simplicity for travel agents from an administrative perspective given changes to fares are expensive to administer. However Amex could see no reason for airlines to agree on the same seasonality.

**IATA comment**

IATA repeats the view previously expressed about the probative value of these records of meeting. A significant number of generalised comments are attributed to American Express representatives in the record of meeting with that company, including the comment that Mr Aitkenhead could see no need for airlines to agree on the same seasonality. The record of meeting gives a clear impression that this was an off-the-cuff comment by Mr Aitkenhead. IATA doubts that it reflects a considered view having regard to all of the circumstances. However, the comment is not surprising given that 70% of American Express tickets are sold in first and business class and its customer base is mostly of a corporate nature.

9.60 *Harvey World Travel* (HWT) advised that as a rule airlines transfer the IATA season into the discount fare system but will depart from their regular seasonal fare structure in a bad season. HWT believed that without the IATA agreed seasons airlines would still use similar seasonal structures which reflected when people wanted to travel.

9.61 From the ACCC’s perspective it appears that IATA excursion fares are little used by consumers but are the vehicle by which airlines agree seasonality periods for fare pricing. There seems little doubt that the IATA agreed seasons are applied by major airlines servicing Australia to non-IATA fares on key routes.

**IATA comment**

This paragraph makes it clear that, having formed the erroneous view that 'IATA excursion fares are little used by consumers' the authors of the paper have made the equally erroneous assumption that 'IATA agreed seasons are applied by major airline servicing Australia to non-IATA fares on key routes'.

This statement is all the more surprising given that Lufthansa, Philippine Airlines, South African, Qantas and Singapore Airlines all informed the ACCC that, where they apply seasonality periods to their economy fares, they do so independently having regard to market requirements.
9.62 Far from being a broad guide to seasonality, as claimed by one airline the IATA agreed seasons are extremely detailed and encompass periods amounting in some cases to mere days, eg 25 December to 2 January.

IATA comment

To the extent that this paragraph is intended to be a criticism of the comment made by one of the airlines, it is unwarranted and should be withdrawn. The fact that a specific period may have been agreed within IATA for the purposes of interlineable special fares to be a peak period does not detract from the proposition that, put at its highest, some airlines might use this IATA seasonality as a broad guide and one of the factors to be taken into account in setting their own market driven fares.

9.63 While it is true that demand for travel does have a seasonal dimension the ACCC is concerned that IATA agreed seasonality provides a framework agreed between airlines for the setting of discount economy fares which is detrimental to consumers.

IATA comment

This hypothetical concern is unjustified. None of the third party statements referred to in the ACCC Discussion Paper justifies it nor would a simple observation of what is happening in the marketplace on a daily basis do so.

IATA does not believe that more expense is justified in refuting the proposition in paragraph 9.63 but if the ACCC is not prepared to accept this response, IATA reserves the right to prepare and submit further factual material.

9.64 It is true that most airlines would still recognise seasonal variations in demand in their fares setting absent IATA agreed seasons. However there is no certainty that there would be a uniformity of seasons and there would be a greater opportunity for competition in the setting of seasonal boundaries as they relate to fares.

9.65 Some airlines have commented that when the market is weak, ie demand is down, they depart from IATA seasonality. Of course this means that when the market is strong they adhere to it. The end result is that when demand is strong airlines compete within various ranges of fares with the ranges moving according to agreed seasons.

IATA comment

The statement made in this paragraph is not justified. It is not that some airlines have commented that, when the market is weak, they depart from IATA seasonality. Rather, the position is that all airlines referred to above have informed the Commission that any seasonality periods they might adopt in their marketing and pricing strategies are determined by reference to the market and not to any pre-ordained arrangement or understanding from which they may sometimes depart.
Most airlines have sophisticated yield management systems which are used to set fares based on demand forecasts. These same systems are well able to be used by airlines to accommodate seasonal changes in demand and some airlines who do not use IATA seasonality have advised the ACCC that they operate in this manner.

**IATA comment**

The meaning of this paragraph is unclear but if it is intended to imply that airlines do not set and adjust their market fares individually and competitively based on supply and demand, then there is no justification for it.

By way of analogy most people would realise and appreciate that toy prices are likely to rise at Christmas in response to increased demand. However most people would also be concerned if all toy retailers agreed a date on which they would increase their prices, regardless of the actual level of prices. Moreover the chance for competition in response to price increases would be lost. A retailer seeing a competitor increase prices has the option of matching the price increase or maintaining his prices to capture market. That price competition is lost if the timing of price increases is agreed prior.

In the case of airlines, given the substantial difference between discount economy fares in different seasons (see Table 9.1 above), the ACCC is concerned that there can be significant detriment to consumers from the agreement of IATA seasonality. This detriment is likely to impact on both business and leisure travellers in the economy cabin.

**IATA comment**

It will be clear from earlier comments in relation to this aspect of the ACCC Discussion Paper that the facts do not support the proposition asserted.

The ACCC should conclude that IATA seasonality periods are established for good reason, in support of a product that provides benefits to consumers and has none of the negative implications which the ACCC Discussion Paper hypothetical postulates.

**Issue 4.** Given that major airlines have acknowledged that IATA seasonality periods agreed for setting fares at IATA Tariff Coordinating Conferences are also used in the setting of market economy fares, why should it not be concluded that there is consequently a lessening of competition in the setting of market fares?

**IATA comment**

Seasonality periods only apply to special IATA interlineable economy fares. They reflect the supply and demand reality and are needed for interlining. They have no adverse effect on competition. Airlines are free to apply them as a standard for establishing their own fares or not as the case may be. The major airlines that the ACCC has referred to have stated that they have not followed the standard when they have found that this brings a competitive advantage.

If seasonal levels were not established annually at meetings of the IATA Tariff Coordinating Conferences, those Conferences would need to meet more frequently and much closer to the fare implementation dates in order to tailor the fare levels to supply and demand, with consequent increased resource costs.

There is no distinction in principle in setting a fare and in establishing a period of time for which that fare is available (i.e. seasonality).
Fare conditions

9.69 Apart from agreeing IATA fares to be applied on routes at IATA Tariff Coordinating Conferences airlines also agree conditions attached to fares. The ACCC is concerned that such agreed conditions are also being applied to non-IATA fares.

<table>
<thead>
<tr>
<th>IATA comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>One of IATA's functions is to establish standards that may be applied across the international airline industry to the benefit of all who participate in it, including consumers.</td>
</tr>
<tr>
<td>However, when it comes to IATA fares, conditions are required to provide the framework within which those fares are to operate. For there to interlining, a commonly agreed framework is required.</td>
</tr>
</tbody>
</table>

9.70 Of particular concern is airline agreement on children's fares in terms of the definition of a child and the percentage of adult fare paid.

9.71 Composite Tariff Coordinating Conference Resolutions 100 and 101 contain standard conditions for normal and special fares. These conditions are applicable to IATA fares if there are no specific conditions contained in resolutions applying to fares agreed on individual routes.

9.72 Clauses in Resolutions 101 and 100 define accompanied children for fare purposes as being aged 2-11 years and require that they pay 75% of the applicable adult fare.

<table>
<thead>
<tr>
<th>IATA comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government safety regulations require that children two years and over must have their own seat. The IATA standard was developed with these regulations in mind. Resolutions 101 and 100 do not require that children pay 75%, and infants (without a seat) 10%, of the applicable adult fare. They merely set out default standards. If, in relation to a particular IATA fare the airlines have not agreed on some other condition, then the default condition applies.</td>
</tr>
<tr>
<td>The amount that an airline or a travel agent may actually charge the passenger is a different matter. That will be determined by each airline and travel agent individually. However, when a receiving airline accepts an accompanied child aged between two and eleven from a ticketing airline in an interline transaction the basis on which the airlines will settle between themselves is that set out in Resolutions 100 and 101 unless the specific fare has different conditions.</td>
</tr>
<tr>
<td>The reason Resolutions 100 and 101 deal with children's fares is that, like all other fares, there needs to be a fare for children for interlining to operate. As with add-ons, establishing children's fares in this manner airlines achieve significant fare publising and distribution cost savings.</td>
</tr>
</tbody>
</table>

9.73 There is no mention of children's fares in special resolutions embracing flights between Sydney and London so that IATA agreed fares on the routes are subject to the clauses in Resolutions 100 and 101 for the setting of children's fares.

9.74 Table 9.2 below shows children's fares available on the Sydney to London route from searches conducted on various websites on 25 January 2005.
Table 9.2 shows that for the airlines concerned discount economy fares for children are set at 75% of the equivalent adult fares consistent with the approach used with IATA fares.

### IATA comment

The IATA standard discount for children's fares is not applied uniformly but nevertheless confirms that it is just that: a standard which many airlines generally follow.

The issue, then, for the ACCC is whether the standard is beneficial or anti-competitive. IATA submits that it is a beneficial standard which works to the benefit of consumers.

In order to test that proposition, IATA investigated what has happened in relation to child fares in Canada for the purposes of domestic air services. Canada was chosen because the standard in Resolutions 101 and 100 do not apply in domestic situations. Canada is an aviation market somewhat greater than Australia and similar to Australia in the sense that it covers a large land area with relatively low population and the population is concentrated.

The result was that in 1988 there were three categories of child fares available in the Canadian market: fares that were only available to non-Canadian residents; APEX non-refundable fares and full economy fares. The general discount level for the non-resident fares was close to 30% for Air Canada and CP Air and the general discount level for full economy fares was 10%. For APEX fares, based on the applicable Toronto-Vancouver fare, a 10% discount for accompanied children was applied by each airline.

The position is now different. Children's fares are not available on Air Canada, the surviving network carrier. The only available child fare is the non-resident fare on that airline, which offers a discount close to 30% for accompanied children. No child fares are available for Canadian residents. There are a number of low cost carriers operating in the Canadian domestic market including Can Jet and West Jet, Harmony and Air Transat. None of these airlines provide child fares.

Child fares have essentially disappeared in Canada.

The concern expressed in this paragraph is misplaced. The unjustified use of emotive language such as 'will be forced into a higher fare category' places an unjustified negative connotation on business practices which are accepted as normal and efficient.

The first point to be made is that the facts do not support the proposition that IATA super APEX, APEX and excursion fare categories are used by airlines in setting their own fares. They are not. The fact, confirmed by every airline that has lodged an independent submission and by the third parties with whom ACCC representatives have discussed the matter, have confirmed that airlines set

<table>
<thead>
<tr>
<th>Website/airline</th>
<th>Definition of child by age</th>
<th>Adult fare</th>
<th>Child fare</th>
<th>Child fare as per cent of adult fare</th>
</tr>
</thead>
<tbody>
<tr>
<td>Qantas/Qantas(1)</td>
<td>2-11</td>
<td>$2,290</td>
<td>$1,736</td>
<td>76%</td>
</tr>
<tr>
<td>Singapore Airlines/Singapore Airlines</td>
<td>2-11</td>
<td>$2,149</td>
<td>$1,612</td>
<td>75%</td>
</tr>
<tr>
<td>Cathay/Cathay</td>
<td>(2)</td>
<td>$3,254</td>
<td>$2,646</td>
<td>75%</td>
</tr>
<tr>
<td>travel.com.au/Malaysian</td>
<td>2-11</td>
<td>$1,598</td>
<td>$1,199</td>
<td>75%</td>
</tr>
<tr>
<td>travel.com.au/Thai</td>
<td>2-11</td>
<td>$1,660</td>
<td>$1,245</td>
<td>75%</td>
</tr>
<tr>
<td>travel.com.au/Qantas and British Airways</td>
<td>2-11</td>
<td>$1761</td>
<td>$1321</td>
<td>75%</td>
</tr>
</tbody>
</table>

(1) Qantas fares were only available inclusive of taxes and charges. All other fares are prior to the inclusion of taxes and charges. (2) Not mentioned.
their online fares independently, in an open and competitive market. This fact is readily observable throughout Australia. It is a point that IATA finds difficult to believe needs reinforcement.

As with any other field of endeavour, competitors match and vary their product mix and pricing according to the demands of the market and the way in which they wish to position their product or products in that market. Fully competitive markets are not devoid of standards. Competitors will naturally mould their products to suit those standards, innovating where it is competitively advantageously to do so. This happens in the market for international air transportation as it does in any other competitive market.

As far as the passenger looking for a 'long-term stay in the United States' is concerned, that passenger has always been able to buy a ticket with a 12-month duration at competitive prices from a range of airlines. There are not many industries that will sell a product that can be used at any time over the following 12 months with no change in the price. The 12-month ticket availability period has become a standard in the industry and it is surprising to see the ACCC Discussion Paper question that standard. If the passenger wants to stay for shorter periods, a range of other products are available from a variety of airlines at a variety of prices, including special IATA fares. The cheapest of those products are on sale for only a matter of weeks and will have varying travel periods that may be determined by reference to specific travel dates or to periods such as one month, three months, six months, etc.

9.76 KLM stated that it generally applies the IATA children and infants' discounts to its fares.

9.77 Lufthansa stated that it has applied the IATA child fare concession criteria previously and continues to do so.

9.78 Philippine Airlines submitted that it applies the child concession criteria agreed at IATA Tariff Coordination Conferences as it finds that the criteria are aligned with its own policies on these matters.

9.79 SAA submitted that when selling non-IATA fares it may or may not apply a discount depending on the market at the time. If a discount was applied it could be the IATA discount but not necessarily.

9.80 Singapore Airlines indicated that it generally applied the child fare concession criteria agreed at IATA Tariff Coordinating Conferences to its own fares.

9.81 United Airlines acknowledged that airlines could have different levels of concession fares. However in the absence of IATA concession rates, the market would settle around a particular level which would be likely to be around the current one. If airlines considered that a different level of concession fare would be good for business they would change it.

9.82 HWT believed that fare concession rates flow from IATA fares to discount fares although some carriers, such as Garuda, Gulf Air and Egyptair vary from this practice.

9.83 The ACCC is concerned that as a result of airlines agreeing on concession rates for IATA fares applicable to children at IATA Tariff Coordinating Conferences and applying those concession rates through to non IATA fares there is a lessening of competition for child travel. The same practice applies to fares for infants and unaccompanied children. The ACCC considers that on this basis there is reason to believe that IATA tariff coordination could give rise to a detriment in the pricing of travel for children.

9.84 The ACCC has noted that ticket categories and related conditions agreed by airlines at IATA Tariff Coordination Conferences for many point to point routes are also used by airlines when setting their own fares on those routes.

9.85 In TC31, for example, airlines have defined three economy fare categories for travel from Australia to North America in addition to the fully flexible full economy fare. These fares are titled Super APEX, APEX and Excursion fares and differ in terms of conditions such as stay
periods and ticketing. The very same fare categories are used by airlines when selling their own fares for point to point travel, for example between Sydney and Los Angeles.

9.86 The ACCC understands that these fare categories also represent points in the hierarchy of fares used by airlines for revenue management purposes. If a passenger wishes to travel on a flight on which all Super APEX fare have been sold, for example he will be forced to purchase a ticket in the next fare category being an APEX fare.

9.87 The ACCC is concerned that the use of IATA fare categories by airlines when setting their own fares leads to a lessening of competition in point to point markets on which they are used. A passenger, for example, looking for a long term stay in the United States will be forced into a high fare category of ticket no matter which airline he chooses to travel on the route as a result of these practices. The practice of adopting IATA fare categories for the sale of non IATA fares could be regarded as leading to a lessening of competition in the setting of fare categories and price for specific traveller groups.

9.88 The ACCC notes that other substantial markets, such as between Australia and the United Kingdom do not feature APEX style fare categories in either IATA or non IATA fares.

IATA comment

This statement is misleading. While excursion fares of an advance purchase nature do not apply to some countries they do to others. There are IATA excursion ('special') economy fares, plus a large and varied range of carrier online excursion economy fares between Australia and the United Kingdom.

IATA special fares between Australia and the United Kingdom current at the time of IATA's original submission were provided with that submission at Volumes 8 and 9 of the Supporting Materials. In addition the IATA special fares between Sydney and London over the period 1 April 1984 to 1 April 1995 were included in the IATA fare data provided by IATA on 22 April 2005 in response to a request from the ACCC.

In fact the whole ACCC Discussion Paper pays little or no regard to the special fares IATA members have established to serve the needs of those travelling on holiday and who want the flexibility that IATA interlining provides.

The genesis of these fares is described in the response to paragraph 9.46 above.

There are IATA special fares from Australia to destinations throughout the world, including Africa, Europe, the Middle East, North Asia and North and South America. Although conditions for these fares vary, they are interlineable (at least at the turnaround point) and normally allow a stopover en route. The following table provides some examples of current IATA special fare types and levels:

<table>
<thead>
<tr>
<th>Brisbane, Sydney, Melbourne to</th>
<th>IATA fare type</th>
<th>Lowest IATA special return fare</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beirut, Cairo, Damascus &amp; Khartoum, Abu Dhabi &amp; Doha</td>
<td>Excursion</td>
<td>$3062</td>
</tr>
<tr>
<td>Kuwait &amp; Riyadh Casablanca Copenhagen, Helsinki, London, Paris, Prague, Vienna, Warsaw &amp; Zurich</td>
<td>Excursion</td>
<td>$2863</td>
</tr>
<tr>
<td>Copenhagen, Helsinki, London, Paris, Prague, Vienna, Warsaw &amp; Zurich</td>
<td>Excursion (via EH)</td>
<td>$2782</td>
</tr>
<tr>
<td>Copenhagen, Helsinki, London, Paris, Prague, Vienna, Warsaw &amp; Zurich</td>
<td>Excursion (via AP, TS)</td>
<td>$3424</td>
</tr>
<tr>
<td>Kiev &amp; St Petersburg Lisbon &amp; Moscow</td>
<td>Excursion (via EH)</td>
<td>$3230</td>
</tr>
<tr>
<td>Malta</td>
<td>Excursion (via EH)</td>
<td>$3489</td>
</tr>
<tr>
<td>Durban</td>
<td>PEX</td>
<td>$3439</td>
</tr>
<tr>
<td>Lusaka Mauritius</td>
<td>PEX</td>
<td>$3489</td>
</tr>
<tr>
<td>Nairobi</td>
<td>Excursion</td>
<td>$3817</td>
</tr>
<tr>
<td>City</td>
<td>Route</td>
<td>APEX</td>
</tr>
<tr>
<td>--------------</td>
<td>-------------</td>
<td>--------</td>
</tr>
<tr>
<td>Bermuda</td>
<td>APEX</td>
<td>$3147</td>
</tr>
<tr>
<td>Mexico City</td>
<td>APEX</td>
<td>$2745</td>
</tr>
<tr>
<td>Vancouver</td>
<td>APEX</td>
<td>$2420</td>
</tr>
<tr>
<td>Lima</td>
<td>PEX (not via North America)</td>
<td>$2889</td>
</tr>
<tr>
<td>Lima</td>
<td>PEX (via North America)</td>
<td>$3034</td>
</tr>
<tr>
<td>Panama City</td>
<td>PEX</td>
<td>$3227</td>
</tr>
<tr>
<td>Santiago</td>
<td>PEX (not via North America)</td>
<td>$2512</td>
</tr>
<tr>
<td>Sao Paulo</td>
<td>PEX (not via North America)</td>
<td>$2889</td>
</tr>
<tr>
<td>Sao Paulo</td>
<td>PEX (via North America)</td>
<td>$3203</td>
</tr>
<tr>
<td>Seoul</td>
<td>Excursion</td>
<td>$2383</td>
</tr>
<tr>
<td>Tokyo</td>
<td>APEX</td>
<td>$2225</td>
</tr>
</tbody>
</table>

Note: EH denotes eastern hemisphere, AP denotes Atlantic and Pacific and TS denotes trans-Siberia. These and other global routings, called 'global indicators', are explained in IATA’s response to ACCC questions dated 16 March 2005 at paragraph 4.

9.89 The ACCC considers that it is likely that other conditions, such as excess baggage charges, agreed by airlines for application to IATA fares have also been transferred to non IATA fares and have resulted in a lessening of competition and detriment to consumers.

**IATA comment**

The basis for the hypothetical proposition that other IATA conditions, such as excess baggage charges, result in a lessening of competition and a detriment to consumers is unsubstantiated and incorrect.

Excess baggage charges are established as part of the IATA interline system because they are needed in order to interline baggage. They are, in that sense, a benefit for consumers.

When it comes to online services, different airlines have different rules. Some have elected to apply the IATA standard and some have not but there is no arrangement or understanding between those that have adopted the standard.

Even when the standard has been adopted, that does not mean that specified excess baggage charges are actually levied. While low cost airlines tend to be quite particular about levying excess baggage charges, full service airlines are more flexible. Some will charge and some will not depending on the circumstances with the flight and the passenger at the airport at the time.

9.90 IATA Composite Tariff Coordinating Conference Resolution 300 specifies baggage allowances for checked baggage and applicable excess baggage charges. Under the weight baggage system which applies for all travel to and from Australia except that involving Canada and the USA the allowances are 40kg for first class passengers, 30kg for business class passengers and 20kg for economy passengers. Under the resolution excess baggage charges are calculated per kilogram of excess at 1% of the highest normal direct adult one way economy class fare for travel from Australia and 1.5% for travel to Australia. There is a similar baggage allowance system applicable for travel to and from Canada and the USA based on the number of pieces of baggage rather than the baggage weight.

9.91 Some airlines show excess baggage rates on their websites while others only provide them on request. Information available from its website shows Qantas charges $40 per kilogram for excess baggage between Sydney and London. This represents 0.7% of the IATA one way full economy fare between Sydney and London of $6148. Singapore Airlines states on its website that:

‘If your baggage is above allowance then you may be charged excess baggage rates. Excess rates are generally 1 to % of the highest direct adult one way economy class fare, per kilo, depending on the point of embarkation.’
The ACCC notes that any lessening of competition between airlines on the carry over of IATA agreed excess baggage rates to passengers generally will be dependent on the extent to which airlines actively administer excess baggage. However in an environment of increasing liberalisation and competition there is increased pressure on airlines to examine all available avenues of decreasing costs and increasing revenues. Excess baggage results in higher fuel costs which can be offset by more stringent baggage administration policies.

To the extent that IATA excess baggage rates are carried over into the non IATA fare market there would be a lessening of competition between carriers. The detriment from such a lessening of competition could be quite significant for consumers. While the IATA excess baggage rate does not necessarily appear significant for a passenger travelling on an IATA fare, for a passenger on a non IATA fare it can be substantial. For a passenger travelling on a return trip from Sydney to London with 5 kilograms of excess baggage the excess baggage rate over both legs of travel would be around $615 compared to a discount economy return air fare of around $2,000.

The ACCC notes that in the Australian domestic market Virgin Blue and Jetstar compete on excess baggage. Virgin Blue charges a $10 excess for baggage weighing in total between 21kg and 30kg. Jetstar on the other hand charges $5 per kilogram for every kilogram over 20kg between 20kg and 40 kg. For 30kg of checked in baggage therefore Virgin Blue charges $10 for excess while Jetstar charges $50.

### Issue 5.

To what extent does the agreement by airlines of fare conditions, including children's fares, fare categories and excess baggage rates, at IATA Tariff Coordinating Conferences give rise to anti-competitive detriment?

#### IATA comment

Fare conditions established through IATA Tariff Coordinating Conferences are a facilitative standard, necessary for interlining but also of general utility as an industry standard.

Standards aim:

1. **To achieve maximum overall economy in terms of:**
   (a) cost;
   (b) human effort and
   (c) conservation of essential materials as opposed to more readily available materials.

   This involves judicious … adoption of production and handling practices known or expected to be most economical.

2. **To ensure maximum convenience in use.**

   *It is this objective of standardization which leads to simplification, rationalisation, interchangeability of parts and freezing of dimensions of components. Increased productivity, elimination of unnecessary waste and reduction of inventories are the consequential benefits.*

IATA fare conditions meet each of these criteria, leading to simplification, rationalisation, interchangeability.

As with all standards, airlines are free to follow these standards or not, except when interlining through the IATA system. They may choose to do so or not according to their own requirements. The standards have no adverse effect on competition. Where airlines have found it a competitive advantage to not follow the standards they have done so and this will continue.

As far as likely competitive effect is concerned, excess baggage charges are ancillary to the air transportation product, discretionary in nature given available consumer information and inherently unlikely to affect competition.
There is no distinction in principle in setting fares for adults and establishing children's fares. For interlining to work the participants need to also agree the conditions applicable to a fare and any excess baggage charge that might apply.

a  Verman: *Standardisation: A New Discipline*, page 39

10. **PUBLIC BENEFITS**

10.1 The ACCC must be satisfied that conduct for which authorisation is sought results in a benefit to the public that outweighs any detriment arising from anti-competitive conduct. The ACCC will also consider the extent to which the benefits claimed by the Applicants represent benefits to the public.

10.2 Consistent with the 'future-with-and-without-test' outlined earlier in this paper the ACCC compares the public benefits generated by the conduct concerned in the future with those likely to be generated if the authorisation is not granted. Public benefits which may accrue in the future irrespective of whether or not authorisation is granted for the conduct concerned may not be accorded weight of any substance.

**Public benefits claimed by the Applicants**

10.3 IATA submitted that Tariff Coordination is required to meet international obligations and essential to worldwide multilateral interlining. In terms of international obligations IATA claimed that Tariff Coordination is mandated by international agreements to which Australia is a party and is required by other countries which have a less liberal aviation policy than Australia, having an important input to government tariff approval in those countries.

10.4 International obligations aside IATA identified public benefits at two other levels, the first being those arising from direct public benefits associated with Tariff Coordination such as through fares, the facilitation of interlining and a natural cap on individual airline pricing.

10.5 The second level of benefits were claimed to arise from interlining and comprised:

- access to through fares
- access to connecting services
- flexibility for time-sensitive passengers
- lower transaction costs
- opportunity for smaller airlines to compete
- expanded route networks
- universality
- and the efficient use of assets.
International obligations

The views of IATA

10.6 IATA stated that Australia has international obligations which the ACCC should respect, as a matter of both international comity and public interest. If Australia is to seek to change the international regulatory framework for scheduled air services it is not appropriate for this to be undertaken unilaterally. Unilateral action by Australia will not of itself remove the need for Tariff Coordination. As long as other counties require it, Tariff Coordination will continue.

Air services agreements

10.7 IATA noted in its submission that Australia is signatory to over 50 bilateral ASAs which provide for the governments concerned to regulate the operation of the airlines of each country designated to operate between the two countries.

10.8 IATA also noted that twelve of the ASAs to which Australia is a party have a clause relating to tariffs which make specific reference to IATA Tariff Coordination. The clause, referred to by IATA as the 'IATA Clause', reads:

'Agreement of tariffs shall, whenever possible, be reached by the designated airlines concerned through the rate-fixing machinery of the International Air Transport Association. When this is not possible, tariffs in respect of each of the specified routes shall be agreed upon between the designated airlines concerned. In any case the tariffs shall be subject to the approval of the aeronautical authorities of both countries.'

10.9 The twelve ASAs concerned are between Australia and:

- Austria
- France
- India
- Ireland
- Indonesia
- Japan
- Myanmar
- Nauru
- The Netherlands
- The Philippines
- Sri Lanka
- Thailand.

10.10 IATA also submitted that the same twelve Australian ASAs contain a tariff approval clause which provides for government approval of tariffs established pursuant to the IATA Clause. The tariff approval clause reads:

'No new or amended tariff shall come into effect if the aeronautical authorities of either country do not approve it except under the terms of the dispute resolution clause of the ASA. Pending determination of the tariffs in accordance with the provisions of this clause, tariffs already in force shall prevail.'

10.11 IATA submitted that if any country with which Australia has an ASA with an operative IATA Clause wishes to insist on application of the IATA Clause, Australia has an international obligation to comply with it.
10.12 IATA has submitted that ICAO, a specialised agency of the United Nations, has prepared policies on the economic regulation of international transport to which the ACCC should as a matter of comity have regard.

10.13 Some of the ICAO recommendations cited by IATA date back to 1977 and 1980, for example:

"ICAO should urge States to encourage their national carriers to meet on a regional basis to ensure that, in the establishment of international fares and rates, the views of all carriers operating on the routes concerned are taken into account."

[Recommendation 7, ICAO Special Air Transport Conference 1977.]

10.14 Another example is provided by Recommendation 9 from the ICAO Second Worldwide Air Transport Conference 1980:

'The examination of any system for the multilateral establishment of international tariffs should involve the participation of the entire international aviation community;

Unilateral action by governments which may have a negative effect on carriers efforts towards reaching agreement should be avoided;

International tariffs should be established multilaterally, and when established at regional levels the worldwide multilateral system should be taken into consideration;

and

The worldwide multilateral machinery for the IATA Traffic conferences shall, wherever applicable, be adopted as a first choice when establishing international fares and rates to be submitted for the approval of the States concerned, and that carriers should not be discouraged from participating in the machinery. ' 

10.15 IATA cited a more recent communique from an ICAO Air Transport Conference, held in Montreal in March 2003, which included the following statement on the application of State competition laws to international aviation, which was unanimously adopted by the conference and subsequently adopted by the ICAO Council:

'[I]n cases where national competition laws are applied to international air transport, care should be taken to avoid unilateral action. In dealing with competition issues involving foreign air carriers, states should give due consideration to the concerns of other States involved..'

10.16 IATA also cited other statements from the 2003 ICAO Conference. From the Conference Conclusion on Safeguards to ensure fair competition, IATA drew attention to a number of paragraphs including the following:

'(e) the extra territorial application of competition laws can affect cooperative arrangements regarded by many as essential for the efficiency, regularity and viability of international air transport, certain forms of which benefit both users and air carriers alike. Consequently, where antitrust or competition laws apply to such arrangements, decisions should take into account the need for inter-carrier cooperation, including interlining, to continue where they benefit users;'

10.17 IATA also cited paragraphs from the Conference Declaration of Global Principles for the Liberalisation of International Air Transport, including the following:

' Subject to compliance with applicable competition law, States should continue to accept the availability of multilateral interlining systems that enable States, air
10.18 IATA stated that it is not suggesting that ICAO resolutions are binding on the ACCC but that they provide further evidence of the difficult regulatory and policy framework within which IATA and its members operate and Australia's aviation policy position in support of that framework and in seeking to work within it, rather than unilaterally, to make changes in Australia's overall interests.

10.19 IATA submitted that the ICAO resolutions are resolutions to which the ACCC should have regard from the viewpoint of the public benefit of ensuring international comity.

Views of interested parties on international obligations

Department of Transport and Regional Services

10.20 The Department of Transport and Regional Services (DTRS) is the Australian Government agency involved in negotiating ASAs on behalf of the Australian Government and in administering agreed ASAs.

10.21 DTRS has submitted that the inclusion of the 'IATA Clause' in twelve Australian ASAs reflects the age of those ASAs and the text of the tariff provision in common use in ASAs in the 1950s, 1960s and early 1970s. The twelve ASAs are with countries where it has not yet been possible to negotiate or finalise more modern texts. DTRS indicated its ability to negotiate more liberal provisions depends on the willingness of the other party to liberalise in this area.

10.22 DTRS submitted that the Government view is that the setting of airfares should be for the airlines commercial judgement and not government regulation, subject to compliance with the Trade Practices Act 1974. DTRS stated that its preferred outcome when negotiating air services agreements is for a tariff clause that reads:

> Each party shall allow each airline to determine its own tariffs for the transportation of traffic.

10.23 DTRS indicated that some progress has been made with two of the twelve countries whose ASAs contain the IATA Clause. A new ASA proposed to be submitted to the Governments of Australia and Sri Lanka does not contain a tariff provision. Australia and India have also agreed a text for a new ASA to be recommended to Governments which includes a provision allowing airlines to determine their own tariffs.

10.24 DTRS advised that while Japan does insist on the provisions of the IATA Clause being strictly followed this was only in respect of published fares. DTRS understands that carriers on the Australia/Japan route independently establish their own net fares which are not required to be submitted for approval. DTRS was not aware of the extent to which net fares are sold in the market.

10.25 DTRS does not actively seek tariff filings by airlines even where an ASA provision calls for this to occur. Japan Airlines is the only airline that files tariffs, voluntarily, on a regular basis. Most of Australia's bilateral aviation partners do require tariffs to be filed with them but these tariffs almost always relate to fares from the other country rather than from Australia. However DTRS recommended the ACCC seek detailed information on this matter from Australia's international airlines.

10.26 DTRS stated that it was unaware of any other clauses in ASAs to which Australia is a party which would have implications for the international obligations of Australia or any other country if the ACCC were to not grant, or limit the scope of, the authorisation of IATA's tariff coordination activities.
10.27 In relation to the 1977 ICAO Conference recommendations DTRS stated that developments in Australian aviation policy and changes in Australian domestic regulations relating to approval of tariffs mean that the processes described in the recommendations are no longer actioned by DTRS.

10.28 DTRS states that the ICAO 1980 Conference recommendations and conclusions cited by IATA have no legal force. However DTRS stated that it supports the recommendations and conclusions while noting that there is no requirements on airlines to use or file the fares established by IATA Traffic Conferences.

10.29 DTRS considered the Conclusion of Safeguards to ensure fair competition and the Declaration of Global Principles for the Liberalisation of International Air Transport which emerged from the 2003 ICAO Conference represented the most recent ICAO views on the complexities arising in the international air transport sector because of different competition regimes around the world and a proposed solution that has wide acceptance from member States. DTRS hoped that the ACCC would take these views into account.

Qantas

10.30 Qantas submitted that it operates to eight of the twelve countries whose ASAs with Australia contain the IATA Clause, being Austria, France, Indonesia, Japan, Thailand, India, Philippines and the Netherlands.

10.31 Some fares between Australia and the eight countries are agreed in both directions through the IATA Tariff Coordination Conference. The majority of the fares sold in the above markets are not agreed through IATA. Many fares are either unilaterally set or bilaterally agreed published fares. Other fares are special promotional fares made available through certain agents. The remaining fares are net fares which traditionally have sold the most volume.

10.32 For each of the eight countries operated to by Qantas, except Japan, published outbound fares from Australia are not lodged with either country's aeronautical authority. Published fares to Japan from Australia are generally, but not always, lodged with the JCAB (Japan Civil Aviation Board).

10.33 Inbound published fares are lodged with the relevant aeronautical authority in Indonesia, Japan, Thailand and Philippines. No inbound fares are lodged in Austria, France, India or the Netherlands.

10.34 No net fares are lodged with any aeronautical authority.

10.35 At the time of the IATA submission India tightly controlled the price at which international airline tickets could be sold. The ASA was amended and the controls relaxed late in 2004.

10.36 Most of the eight routes have a mix of fares in the market place and Qantas is able to adjust its fares in response to market conditions. In Japan such adjustment is required to be done through net fares given the JCAB's rigid adherence to filing published fares.
Discussion on international obligations

Air services agreements

10.37 IATA suggests there is a benefit from meeting international obligations arising from ASAs to which Australia is a party. The ACCC acknowledges that there is likely to be a public benefit from meeting international obligations and avoiding disputes with other States given the possibility that such a state of affairs could lead to disruption to the commercial operations of Australian airlines.

IATA comment

In its letter to the ACCC dated 13 September 2005, DOTARS pointed out that the provisions with Australia's Air Services agreements are treaty level obligations that are enforceable under international law. DOTARS has stated that all Air Services Agreements that contain IATA tariff provisions must be considered equally. This supports IATA's original submission that, notwithstanding Australia's more liberal policy in relation to negotiations with international air services, Australia still has treaty obligations which are enforceable, many of which contain the IATA clause.

10.38 DTRS has stated that it is unaware of any clauses in ASAs other than the IATA Clause and the related filing clause which would have implications for the international obligations of Australia or any other country if the ACCC did not grant, or limited the scope of authorisation of IATA's Tariff Coordination activities.

10.39 The issue for the ACCC would seem to be the need to determine the extent to which any limiting of authorisation of IATA Tariff Coordination could lead to disputes with other States.

10.40 DTRS has indicated that the presence of the IATA Clause is a product of history and it is attempting to negotiate more liberal provisions as opportunities arise. DTRS has indicated a preference for a tariff clause which states that each party shall allow each airline to determine its own tariffs.

10.41 The IATA Clause is therefore effectively being phased out17 and in the medium term the potential for disputation between States over the IATA Clause will disappear.

IATA comment

As noted above, in its letter dated 13 September 2005, DOTARS pointed out that the tariff provisions, as they appear in Australia's Air Services agreements, are treaty level obligations. They are enforceable under international law. DOTARS has not expressed a view on whether, at any time in the future, whether short-term, medium-term or long-term, the potential for disputation between States will disappear. As the Commonwealth department primarily responsible for policy in this area has declined to express a view on this matter, the ACCC has no basis for the statement made in this or the following paragraph.

10.42 In the interim the potential for disputation would appear to be limited to the countries of the twelve ASAs identified above which contain the IATA clause and related clauses.

10.43 Qantas has made a submission in relation to the setting and filing of fares for eight of the twelve countries - Austria, France, Indonesia, Japan, Thailand, India, Philippines and the Netherlands. It is apparent from that submission that Japan is the only country which rigidly adheres to the fare setting and filing provisions of its ASA. However even in that case

---

17 IATA indicated that 24 ASAs contained the IATA Clause in 1985 (IATA response to ACCC questions, 22 April 2005).
adherence is limited to published fares and airlines are not obliged to participate in the setting of net fares or to file net fares.

10.44 Qantas further advised that for outbound fares (from Australia to the country concerned) none of the other seven countries requires the filing of fares. This would suggest that these countries are not involved in the setting of the fares, regardless of the presence of the IATA clause in their ASAs.

10.45 According to Qantas for inbound fares (from the country concerned to Australia) only Japan and Thailand rigidly require their lodgement.

10.46 DTRS has advised the ACCC that it does not require any fares to be lodged with it while providing a facility for lodgement for any airline wishing to do so. Japan Airlines is the only airlines which files tariffs, voluntarily, on a regular basis.

10.47 The four countries with ASAs containing the IATA Clause to which Qantas does not operate are Ireland, Nauru, Myanmar and Sri Lanka. The status of these routes is as follows:

- DTRS has advised that Australia and Sri Lanka have settled the text for a new ASA to be recommended to Governments. The ASA does not contain a tariff clause.
- There are currently no services operated by designated airlines between Australia and Ireland or Myanmar.
- The only services between Australia and Nauru are operated by Air Nauru. Air Nauru is not a member of IATA and cannot and does not attend IATA Tariff Conferences. There do not appear to be any IATA fares agreed for travel to/from Nauru.

10.48 It would seem to the ACCC that the only ASAs for which there could be issues in relation to the IATA Clause as a result of an ACCC response to the IATA application for authorisation of IATA's Tariff Coordination activities are the ASAs for Japan (inbound and outbound) and Thailand (inbound only).

10.49 Accordingly any potential benefit will only accrue in respect of those two ASAs and for the period they remain unchanged in the face of the objective of DTRS to remove the existing IATA Clause.

### IATA comment

As noted above, the Commonwealth department responsible for aviation policy has advised the ACCC that all Air Services Agreements that contain IATA tariff provisions should be considered equally because they are treaty level obligations that are enforceable under international law.

### Issue 6

To what extent should the ACCC in determining its views on IATA Tariff Coordination have regard to tariff provisions of air services agreements between Australia and countries other than Japan (for all traffic) and Thailand (for inbound traffic)?

### IATA comment

IATA notes the submission made by the Department of Transport and Regional Services that "Tariff provisions within Australia’s air services agreements are treaty level obligations that are enforceable under international law." The Department also suggested that all air services agreements containing IATA tariff provisions should be considered equally regardless of the status of interim administrative arrangements.
IATA has submitted that ICAO resolutions relating to competition and interlining are resolutions to which the ACCC should have regard from the viewpoint of the public benefit of ensuring international comity.

While acknowledging that they have no legal force, DTRS has submitted that the ACCC should have special regard for conclusions and recommendations on competition and interlining emanating from the 2003 ICAO Air Transport Conference, which represent the most recent representation of views on these matters.

The ACCC agrees with DTRS that the more recent ICAO resolutions are the most pertinent views and notes in particular paragraph (e) of the Conference Conclusion on Safeguards which states that competition law decisions should take into account the need for inter-carrier cooperation, including interlining, to continue where they benefit users.

The ACCC suggests that the wording of this conclusion is such that it could hardly be its intention to recommend the continuance of inter-carrier cooperation, including interlining, under circumstances where that cooperation does not benefit, or even disadvantages, users.

Accordingly any decision of the ACCC on tariff coordination and interlining which is based on public benefit analysis prescribed in Australian law as part of the authorisation assessment process would appear to be consistent with the ICAO Conference Conclusion on Safeguards.

The ACCC notes also the resolution at paragraph 5.5 of the ICAO Conference Declaration on Global Principles for the Liberalisation of International Air Transport, which recommends that States continue to accept the availability of multilateral interlining systems subject to that conduct complying with applicable competition law.

Any decision made by the ACCC pursuant to Australian competition law would on these grounds be consistent with the ICAO Conference Declaration.

Overall then it would appear to the ACCC that the level of benefit accruing from the meeting of international obligations associated with ICAO will be consistent with the level of benefit found by the public benefit analysis of IATA Tariff Coordination required for the authorisation process.

IATA comment

The statement made in this paragraph is unwarranted and inappropriate. It implies that the IATA system disadvantages users and that IATA is suggesting that it should be authorised because, among other reasons, ICAO has passed the resolutions referred to.

Any such view fundamentally misconstrues IATA’s original submission. At the risk of being repetitive, IATA’s case may be simply stated as being that tariff coordination and interlining provide a benefit to the public, that benefit is an enduring benefit and has little or no anti-competitive effects.

As far as ICAO resolutions are concerned, they support the proposition that competition decisions should take into account the need for inter-carrier cooperation including interlining. This demonstrates that governments with responsibility for aviation policy, meeting at ICAO, have concluded that interlining is a public benefit and that supports the primary submissions IATA has made.
Issue 7. To what extent could any decision made by the ACCC on IATA Tariff Coordination using net public benefit criteria and Australian competition law be regarded as inconsistent with ICAO recommendations?

IATA comment

In summary, the relevant issue is one of scope. The ACCC focuses on public benefit issues primarily in the context of their affect domestically, whereas the ICAO recommendations are directed to the public benefit to all nations of safe, reliable and efficient international air travel. Each is important.

In asking this question the ACCC Discussion Paper has focussed on the wrong paradigm. A decision made by the ACCC which does not maximise the public benefit to Australia through enhancement of welfare of all Australians by giving proper weight to the role ICAO plays in providing safe, reliable, efficient international air travel would overlook a significant public benefit.

Tariff coordination and interlining

Public benefits claimed by the Applicants

10.58 IATA's primary identified benefit of Tariff Coordination is that it enables multilateral interlining to occur. Interlining is described by IATA as a system by which passengers may travel on multiple airlines under a single contract on a single ticket bought in a single transaction using a single currency. Interlining is described as offering a passenger through checked baggage, and a high degree of flexibility as to timing, routing and airline.

10.59 IATA has described Tariff Coordinating Conferences as the mechanism by which 'through fares' are established and claimed that without through fares the likely result would be that airlines would determine only their own though fares for travel limited to their own services making multilateral interlining virtually impossible. IATA claimed that if there were no multilaterally established tariffs, established in advance, then the system would fail. It is only when an airline knows in advance what it will be paid and what it will have to pay another airline for interline passengers that the system will work.

10.60 IATA has claimed that the benefits of the IATA interlining system, described as a facilitative system which enhances consumer choice and gives airlines an efficient method of accessing a worldwide route network, and tariff coordination are as listed below:

- access to through fares
- access to connecting services
- flexibility for time-sensitive passengers
- baggage connectivity
- lower transactions costs
- opportunity for smaller airlines to compete
- expanded route networks
- universality
- efficient use of assets
- natural cap on prices

The views of interested parties on benefits

10.61 The ACCC has received submissions from or met with a total of thirteen different international airlines. In response to requests made by the ACCC some airlines gave details of their alliance relationships and a few gave information on the level of IATA fares sold. All
the airlines support tariff coordination and interlining with common benefits identified including:

- relying on interlining to provide increased access to destinations and feeder traffic; and
- the use of IATA agreed fares as a basis for determining special prorate agreement rates and airline fare frameworks.

10.62 Submissions received from Government Departments or agencies also made reference to interline benefits. The Department of Transport and Regional Services commented on the impact of alliances and the role of IATA interlining. The Department of Industry, Tourism and Resources, the NSW Department of Tourism, Sport and Recreation and the South Australian Department of Transport and Urban Planning supported continued authorisation of interlining on the basis of tourism benefits, as did the Tourism Task Force.

10.63 A submission from Melbourne Airport considered the tariff coordination arrangements led to significant benefits especially in relation to lower transaction costs.

10.64 Three of Australia’s major travel agents met with ACCC officers and provided comments on topics including the need for and the extent of usage of IATA fares.

10.65 The detail of comments made by interested parties will be addressed as appropriate in the discussion below on public benefits arising from IATA Tariff Coordination.

Key public benefit issues

10.66 It seems to the ACCC that there are two key issues relevant to the assessment of public benefits associated with IATA Tariff Coordination, being:

(1) the extent to which IATA fares are necessary in today's international air passenger markets to reach offline destinations or obtain passenger flexibility; and

(2) the extent to which IATA fares agreed at IATA Tariff Coordinating conference are actually sold in the market and utilised for offline travel or to take advantage of fare flexibility conditions.

10.67 The ACCC acknowledges that these issues may be related. If more destinations are accessible without the need for offline travel for example it could be expected that the number of tickets sold for such travel purposes would also be reduced. Similarly the price of fares to destinations involving interline relative to fares to destinations accessible through online travel may also be reflected in the number of interline fares sold, especially for price sensitive travellers.

10.68 The ACCC has approached IATA and airlines for information in relation to the above issues which it regards as pivotal in determining the quantum of many benefits claimed by IATA to be associated with IATA Tariff Coordination. The ACCC has sought similar information from travel agents.
The need for IATA interline fares

Accessing offline destinations

IATA comment

IATA combines the operations of hundreds of international and domestic airlines worldwide in joint ventures to transport passengers to required destinations. Some commentators have commented that in this regard IATA is the ultimate alliance.

Without IATA global standards it is inevitable that each alliance would develop its own standards, making it difficult for passengers to secure connectivity between airlines of different alliances. Non-aligned airlines would have to be able to comply with multiple standards rather than a single IATA standard. This will increase their costs of doing business significantly.

It is probable that they would also require authorisation if the alliance involved competitor airlines operating to Australia.

10.69 From the ACCC’s perspective it would appear that the ability of travellers from Australia to access points overseas without the need to utilise IATA interline fares has increased dramatically since IATA Tariff Coordination received authorisation in 1985. A similar view could be expressed in relation to non-resident travellers wishing to access Australia from points overseas.

IATA comment

While the number of destinations accessible online, i.e. on the services of a single airline, may have increased since 1985 this, in itself, does not mean that a consumer is better served by these increased online connection possibilities. A typical consumer values short connection times, short total duration, the ability to choose the best routing and intermediate stopping points that meet his or her needs. The IATA system gives consumers these choices.

10.70 Increased access has occurred as a result of the combination of the liberalisation of air services agreements, greater individual airline networks, increased network access through the proliferation of code shares, special prorate agreements, marketing and more structured alliances that have emerged since the mid 1990s, and the advent of low cost carriers.

IATA comment

Nevertheless no single airline or alliance can provide the worldwide access that the IATA system provides. The largest alliances combines the services of 16 airlines, the IATA multilateral interline system combines the services of over 300.

10.71 The impact of liberalisation is clearly evident. In early 1984 there were 30 international airlines operating to and from Australia accounting for 175 departures per week and some 66,000 seats.\textsuperscript{18} In November 2004 there were 43 airlines accounting for 1,101 departures per week and 285,000 seats\textsuperscript{19}.

\textsuperscript{18} TPA Determination A3485 of 31 October 1984, page 29.
\textsuperscript{19} \emph{International scheduled air transport}, November 2004, Bureau of Transport and Regional Economics.
IATA comment
The figures quoted, if accurate, reflect the changing dynamics of the airline industry over the last 25 years. However these should be carefully analysed before making broad assumptions. For example, what has not been noted is that the average available seat numbers by departure has declined by over 30%. This could suggest an opposite trend to that put forward in the ACCC Discussion Paper.

10.72 In 1985 there were few, if any, alliances and for itineraries which required passengers to interline the IATA interline fare was one of few options available to travellers. By comparison as at 2005 most airlines operating to and from Australia participated in alliances or arrangements which see their effective networks extended and travellers being able to be offered non IATA fares to reach offline destinations. In the current aviation environment interline travel embraces not just travel based on fares agreed at IATA Tariff Coordinating conferences but also travel across airlines using fares the product of bilateral or multilateral commercial arrangements between airlines.

IATA comment
As the ACCC will appreciate, the joint setting of fares between competitors either bilaterally or within an alliance arrangement would likely require careful self-assessment and/or an authorisation.

10.73 Consider the range of airlines with which Qantas had a commercial relationship with network benefits as at February 2005.

- Qantas as a member of the oneworld marketing alliance was able to sell fares across the combined networks of all oneworld members being Aer Lingus, American Airlines, British Airways, Cathay Pacific, Finnair, Iberian and Lan Chile. The oneworld website states that the oneworld network services over 550 destinations around the globe. A oneworld press release issued in late 2004 announced that Qantas offers interline e-ticketing with all other members of the oneworld alliance.

Table 10.1 Routes on which Qantas has a code share agreement, by partner airline

<table>
<thead>
<tr>
<th>Routes</th>
<th>Airline code sharing with Qantas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>British Airways</td>
</tr>
<tr>
<td>Bahrain</td>
<td>Gulf Air</td>
</tr>
<tr>
<td>Canada</td>
<td>American Airlines</td>
</tr>
<tr>
<td></td>
<td>Alaskan Airlines</td>
</tr>
<tr>
<td>Chile</td>
<td>Lan Chile</td>
</tr>
<tr>
<td>China</td>
<td>China Eastern</td>
</tr>
<tr>
<td>Denmark</td>
<td>British Airways</td>
</tr>
<tr>
<td>Fiji</td>
<td>Air Pacific</td>
</tr>
<tr>
<td>Finland</td>
<td>Finnair</td>
</tr>
<tr>
<td>France</td>
<td>Air France</td>
</tr>
<tr>
<td>Germany</td>
<td>British Airways</td>
</tr>
<tr>
<td>Greece</td>
<td>Gulf Air</td>
</tr>
<tr>
<td>Italy</td>
<td>Cathay Pacific</td>
</tr>
<tr>
<td>Japan</td>
<td>Japan Airlines</td>
</tr>
<tr>
<td>Korea, South</td>
<td>Asiana</td>
</tr>
<tr>
<td>Lebanon</td>
<td>Gulf Air</td>
</tr>
<tr>
<td>New Caledonia</td>
<td>Air Calin</td>
</tr>
</tbody>
</table>

20 Qantas now offers interline e-ticketing with all oneworld partners, oneworld press release, 20 December 2004.
<table>
<thead>
<tr>
<th>Country</th>
<th>Airline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Norway</td>
<td>British Airways</td>
</tr>
<tr>
<td>New Guinea</td>
<td>Air Niugini</td>
</tr>
<tr>
<td>Poland</td>
<td>British Airways</td>
</tr>
<tr>
<td>Samoa</td>
<td>Polynesian Airlines</td>
</tr>
<tr>
<td>Singapore</td>
<td>British Airways</td>
</tr>
<tr>
<td>South Africa</td>
<td>South African Airways</td>
</tr>
<tr>
<td>Sweden</td>
<td>British Airways</td>
</tr>
<tr>
<td>Switzerland</td>
<td>British Airways</td>
</tr>
<tr>
<td></td>
<td>Swiss International</td>
</tr>
<tr>
<td>Tahiti</td>
<td>Air Tahiti</td>
</tr>
<tr>
<td>Taiwan</td>
<td>Eva Air</td>
</tr>
<tr>
<td>Thailand</td>
<td>British Airways</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>British Airways</td>
</tr>
<tr>
<td>Vanuatu</td>
<td>Air Vanuatu</td>
</tr>
<tr>
<td>Vietnam</td>
<td>Vietnam Airlines</td>
</tr>
</tbody>
</table>

**IATA comment**

The codeshare operations listed do give consumers additional choices for travel between Australia and other countries. However these codeshare operations do not facilitate those consumers seeking multiple enroute stopovers. As well one should seriously consider if a consumer would value connections via London when their destinations are in Austria, Poland, Sweden or Switzerland. The IATA multilateral product is an additional choice for consumers and does not limit the ability of participants to make other arrangements and to offer other similar, but less flexible, products.

Table 10.1 also demonstrates that airlines can and do make arrangements outside of their chosen alliances.

- Qantas has code share agreements with the airlines listed in Table 10.1 above. IATA has claimed in its submission that code share agreements are not interline agreements, but many are interline agreements or have interline agreements hanging off them. Qantas for example has a code share with Swiss International which enables Australian passengers to switch from a Qantas aircraft to a Swiss aircraft at Bangkok and access one stop travel to Zurich from Sydney (rather than travel via the United Kingdom). Qantas has similar interline arrangements in place with Alaskan Airlines to Vancouver, Air France to Paris, Cathay Pacific to Rome and Finnair to Helsinki, amongst others. Many code shares also provide for interline travel beyond the code share route. The Qantas code share with South African Airways, for example, provides for domestic interline travel at both ends of the code share.

**IATA comment**

As explained elsewhere in these comments, the IATA product provides a much greater range of choices to consumers and serves the needs of travellers whose journeys are more complex than simple out and back trips.

- The precise number of prorate agreements Qantas has with other airlines is not known. However Qantas has advised the ACCC that Ansett's collapse in 2001 resulted in Qantas reviewing many of its special prorate agreements so that international carriers (such as members of the Star Alliance) had sufficient access to domestic Australia. These arrangements mean that other international airlines do not have to offer customers IATA interline fares to access points in Australia beyond its international gateways.
IATA comment

The IATA product provides consumers with additional choices. IATA is not of the view that multilateral interline fares will be the consumer's best choice in all cases, however their existence does not affect an airline’s ability to seek or make other arrangements.

- Under Determination A90427 of 20 July 1987 authorisation was granted for Qantas and other airlines to make tariff agreements outside IATA Conferences. Qantas uses this immunity, for example, to establish intra Asian fares and promotions with other airlines through an ASEAN conference.

IATA comment

At the time Determination A90427 was issued many of the airlines concerned were not members of IATA and did not participate in the IATA Tariff Coordinating Conferences. However this too demonstrates that the IATA product provides additional choices, and not the only choice for consumers.

10.74 Other international airlines operating to Australia have similar levels of cooperative arrangements with other airlines. Air New Zealand, Austrian Airways, Air Canada, Singapore Airlines, Thai International and United Airlines, for example, are members of the Star Alliance.

IATA comment

Although these arrangements may be similar, authorisations have not been granted to establish joint fares by these airlines. All these airlines have elected to participate in IATA Passenger Tariff Coordinating Conferences.

10.75 An important development in this area in terms of further expansion of the network reach of the major marketing alliances is that they are looking at taking on regional members. The Star Alliance has announced, for example, that Adria Airways and Croatian Airlines have been approved to join Star as regional members. The Australian manager of United Airlines has stated\(^\text{21}\) that regional carriers do not effectively become headline members of Star, so that the level of complexity [of the alliance] is not added to, ‘but the reach of breadth does expand in terms of what customers or travel agents see when they’re trying to do a Star round-the-world fare or book and look at whatever travel they have in mind.’

10.76 Even airlines not aligned with the major marketing alliances have extensive bilateral commercial linkages:

- Malaysian Airlines has:
  - joint services agreements with Singapore Airlines, Silk Air, Iran Air and Air India;
  - code share agreements with Sri Lankan, British Midlands, Virgin Atlantic, KLM, Lauda Air, Egypt Air, Swiss Airlines, Philippines Airlines, Uzbekistan Airways, Korean Air, Garuda, All Nippon Airways, Cathay Pacific, Air India,

\(^{21}\) ‘Still a Star Performer’ Travel Trade, 3 November 2004.
- pool services with Air India and Indian Airlines.

• Philippines Airlines has:

- code share arrangements with Air France, Royal Brunei, Cathay Pacific, Emirates Air, Garuda, Gulf Air, KLM, Malaysia airlines, Egypt Air, Air Macau, Qatar Airways and Vietnam Airlines;

- special prorate agreements on specific routes with 42 airlines.

IATA comment

Malaysia Airlines' code share agreement with Lauda Airlines has been superseded by an agreement with Austrian Airlines. Its code share agreement with Virgin Atlantic will cease at the end of October 2005.

10.77 The impact of alliances on interlining has generally been widely acknowledged. For example:

• Mr Charles A Hunnicutt, Assistant Secretary for Transportation for Aviation and International Affairs provided the following testimony before the Antitrust, Business Rights and Competition Subcommittee of the Senate Judiciary Committee in the United States in March 1998:

'The alliances have led to improved service, choice and competition in thousands of markets that single airline systems could not reach and have boosted traffic growth in the markets they serve.'

'Until the advent of the alliances, passengers in markets behind and beyond international gateways historically relied on interline connections, and suffered from poor service, less competition and high fares. Interline service is difficult to market and involves little lasting commitment by the partners who are reluctant to spend time and money to improve it. It is easier to promote single-code service, and having both partners' codes in beyond-gateway markets has distinct advantages. Alliance partners are more likely to better coordinate connecting services, improving service quality.'

• A paper by Shelley Longmuir entitled, 'A Decade of Global Airline Alliances: Their Impact on Consumers, Communities, Carriers and Competition' conclusions that alliances 'greatly expand the number of destinations that travellers can reach using the same air transportation system - 'online'-without having to transfer or connect to unrelated airlines.

IATA comment

IATA agrees that these arrangements provide additional choice for consumers. However the removal of IATA system to/from Australia would result in the opposite.

10.78 The ACCC also believes that the advent of low cost carriers is very likely to have an additional impact on the need for travellers to use IATA interline fares to access offline destinations. The rapid growth of low cost carriers in North America, Europe and now Asia

---

22 28 Int'l Bus Law
has seen the rapid expansion of low fare access to destinations beyond international hubs and national gateways and provided an additional option for travellers to consider against the IATA interline fare.

10.79 Rather than purchase a relatively expensive (as is discussed below) IATA interline fare from Sydney to a destination in Europe, travellers can purchase a discounted point to point fare from Sydney to London, say, and then utilise a low cost carrier from London. There may be some inconvenience in the level of connectivity between the network carrier and the low cost carrier. However the price sensitive traveller may well be prepared to accept the cost of inconvenience as acceptable relative to the difference in airfares if an IATA interline fare is used.

<table>
<thead>
<tr>
<th>IATA comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>This is a matter of passenger choice. IATA does not prevent the price sensitive passenger from having this option.</td>
</tr>
</tbody>
</table>

10.80 The Centre for Asia Pacific Aviation has recently been noted\(^2\) as stating in relation to the benefits of low cost carriers and their ability to stimulate traffic:

> 'Airports and their retailers gain from increased passenger movements; consumers benefit from lower fares and access to destinations not previously served; and tourism and local economies profit from growth associated with retail and hospitality sectors'.

10.81 In the same article it is stated that:

> 'For Australians, Asia's low cost airlines explosion means a burgeoning network with cheap fares to an increasing number of destinations'.

10.82 The ACCC considers that for the reasons discussed above there is good reason to believe that since the authorisation of IATA's Tariff Coordination activities in 1985 there has been a substantial reduction in the number of offline destinations that can only be reached by travellers using IATA interline fares.

<table>
<thead>
<tr>
<th>IATA comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>IATA does not disagree with this view for those travellers seeking the simplest type of journeys on many, but not all routes.</td>
</tr>
</tbody>
</table>

However, multi-sector journeys involving two or more intermediate stopping points cannot be accomplished with the same ease and with the same level of flexibility as delivered by the IATA multilateral interline product.

10.83 The ACCC's view is supported by a submission from DTRS which states:

> 'Since IATA last received authorisation there has been a significant expansion of airline route networks as a result of the factors outlined in your [ACCC] letter. It can be logically assumed that this expansion and the increased use of code-sharing arrangements by airlines have resulted in reductions in:

- the number of routes where access to interlining using IATA fares is required to move between two points: and

\(^2\) ‘Low-cost flight paths lead to Asia’, the Australian, 28 January 2005.
10.84 IATA has submitted that there are many destinations in the world not served by flights by any one airline operating from or to Australia. IATA claims that for passengers travelling to or from destinations not served by flights by any one airline, or alliance or code share, the only way to travel seamlessly is by utilising the IATA Interline System and travelling on a variety of airlines.

10.85 IATA quotes statistics which show that while at September 2003 there were 3,822 cities in the world taking scheduled airline operations, DTRS statistics only show flights between Australian airports and 80 international airports.

10.86 However the DTRS statistics have limited value as a guide to the overseas destinations able to be reached from Australia without using IATA interline fares. First, as indicated in the relevant DTRS publication, the overseas airports cited are the uplift and discharge ports for city pairs with the same flight number. Outbound traffic for an overseas airport, say on a Singapore Airlines flight from Sydney to Singapore will be allocated to the city pair which reflects the ultimate destination of the flight number for the aircraft when leaving Sydney. Cities at the end of connecting flights at Singapore, eg to Barcelona, Munich, etc, with different flight number will not be recognised by the DTRS list of city pairs.

IATA comment

IATA repeats that it is a fact that there are many destinations in the world not served by flights by any one airline operating from or to Australia. In stating that fact IATA was not relying on DOTRS statistics. Qantas submitted that the benefits of IATA tariff coordination are mainly restricted to complex itineraries in the business market and noted that there are not a lot of passengers undertaking complex journeys.

Singapore Airlines does not operate to Madrid so a passenger from Australia to Madrid could not access that city on a Singapore Airlines service. This route was specifically dealt with in paragraph 14.5 of IATA's original submission, but to make a point about accessing Madrid on Qantas services. The paragraph recorded the fact that online services to Madrid are available on other airlines including Thai International.

Table 8A in Section 8 of this submission shows that passengers travelling through transit points such as Hong Kong, Singapore, Malaysia and the US travel to final destinations in over 160 countries, many of which are inaccessible on one airline or alliance.

10.87 Secondly the DTRS statistics are based on operating carriers only and do not take account of alliances of any form. For a Qantas flight from Sydney to Singapore connecting to a Finnair code share flight to Helsinki, the DTRS statistics will only recognise a city pair of Sydney/Singapore (if the Qantas flight number terminates at Singapore) or Sydney/London (if the flight number terminates at London). The Sydney/Helsinki city pair will never appear in the DTRS statistics.

10.88 From the ACCC's perspective comments made by Qantas are particularly relevant to an assessment of the need for IATA fares to reach offline destinations. Qantas advised the ACCC that when IATA tariff coordination activities first appeared they generated significant benefits. However Qantas believes that these days the benefits are clearly not as large and the number, and volume of traffic, to out of the way destinations not served online or through alliances, code shares or special prorate agreements has been greatly reduced.

---

24 International scheduled air transport (monthly), Bureau of Transport and Regional Economics
10.89 Qantas submitted that the benefits of tariff coordination are mainly restricted to complex itineraries in the business market and noted that there are not a lot of passengers undertaking complex journeys.

**IATA comment**

IATA has objected above to the ACCC Discussion Paper treating a comment apparently made in a meeting as a Qantas submission.

The facts remain that there is a large number of cities that cannot be accessed through direct flights, online connecting flights or connecting flights between alliance partners.

While the proportion of travellers who choose the IATA product, over other products, may have declined in percentage terms, it remains that the total number continues to be significant and is greater than the total number when IATA was granted the current authorisation.

**Issue 8. Is it correct that the number of offline destinations that can only be reached using IATA interline fares has substantially reduced since IATA Tariff Coordination was last authorised in 1985?**

**IATA comment**

Since 1985 the number of primary and secondary airports has expanded dramatically as has the number of airlines operating scheduled passenger services. As passenger demand has expanded and bilateral government negotiations expanded capacity available on major routes airlines have responded by expanding online services and their use of alliances and code shares (where permitted by governments) in line with demand.

While, as a consequence, it can be asserted that the absolute number of destinations able to be accessed online has increased, it is not possible to conclude that the number of offline destinations that can only be reached using IATA interline fares, for all or part of the journey, has substantially reduced. The opposite is likely to be the case.

It is not just a question of passenger access to offline destinations. The IATA system provides access to all destinations worldwide using the services of all participating airlines allowing a consumer to choose the schedules, stopover cities and airlines that suit his or her needs.

All that can be concluded is that, compared with 1985, there are more people travelling to more places on more airlines than ever before.

The fact is that IATA's member airlines have responded to market demand in expanding their services and that this has been facilitated by the IATA system, not retarded by it.

However, even if the number of offline destinations that can only be reached using IATA interline fares had substantially reduced, that would not lead to the conclusion that IATA interlining is not of public benefit. It would merely be a factor in assessing the quantum of that benefit.
Travel Flexibility

10.90 IATA interline fares are also described by IATA as providing flexibility, especially for time sensitive passengers, by providing the ability to change airlines under circumstances, say, when missing a connection for business reasons, when changing an itinerary in mid journey, or when a disruption occurs to an itinerary for, say, technical or weather reasons.

10.91 This benefit of flexibility is not limited to offline destinations but also to point to point routes embracing travel between major international hubs such as Sydney/London, Sydney/Los Angeles, and Melbourne/Singapore.

10.92 The ACCC believes it is likely that there has been a significant reduction in the need for travellers to seek flexibility through purchasing IATA interline fares since IATA's Tariff Coordination activities were last authorised in 1985, for the following reasons:

- there has been a dramatic increase in the number of flights offered each day by individual airlines on major routes to and from Australia;
- cheaper flexible fares are now available within individual airlines; and
- there has been a proliferation of airline alliances with increased ability for passengers to move between the flights of alliance members.

10.93 The ACCC also believes any benefits associated with flexible fares will generally be greater on short haul international routes, such as commonly experienced in Europe, than on the long haul routes between Australia and most other destinations. The bunching of flights to and from Australia during the day because of airport curfews in Australia, for example, limits the ability of travellers to take advantage of any flexibility attached to a fare.

10.94 The main short haul route from Australia is to and from New Zealand. There would appear to be little need for the flexibility provided by IATA interline fares on this route given the high daily frequencies provided by carriers operating on the route and the sector fare structure used by most of those carriers. A traveller looking for flexibility in his travel can compile an itinerary of sector fares (flexible or inflexible) from different airlines on the route.

IATA comment

The ACCC is overlooking the most important aspect of the flexibility that the IATA system delivers. The flexibility for consumers to plan their journeys allowing them to choose the flight timings and airlines that suit their needs, that allow them to choose which intermediate connecting or stopping points and in which sequence they are taken.

Even on the relatively short haul route the IATA product offers consumers additional choices and allow complex itineraries to be chosen involving multiple stopovers in both Australia and New Zealand. Some travellers seeking a less complex journey may choose the IATA product as it allows them to travel on different airlines on the outbound and return journey, or change to a different carrier if they desire.

And for those travellers who have chosen a fully flexible IATA ticket they have the assurance that should their plans change after they have begun their trip, changes can be made without fuss and without the necessity to buy new tickets in foreign currency.
Issue 9. Is it correct that for passengers seeking travel flexibility there is a substantially wider range of options now available beyond IATA agreed fares compared to 1985 when Tariff Coordination was last authorised?

IATA comment

As noted in IATA's comment to ACCC Issue 8, all that can be concluded is that, compared with 1985, there are more people travelling to more places on more airlines than ever before. For some destinations travel flexibility will have increased with airline frequency. For many others there has been no change.

Even if there is a wider range of options now available for passengers seeking travel flexibility, that would not lead to the conclusion that IATA interlining is not of public benefit. It would be merely one factor in assessing the quantum of that benefit.

It is significant that IATA's member airlines have responded to market demand in expanding their services and that this has been facilitated by the IATA system, not retarded by it.

The incidence of sale and utilisation of IATA interline fares

How many IATA interline tickets are sold?

10.95 In its submission to the ACCC IATA provided a table (see Table 10.2 below) showing its estimates of the number of IATA interlineable tickets processed by the IATA Billing and Settlement Plan (BSP) in Australia in the period from 1 April 2003 to 31 March 2004. IATA notes that the BSP covers sales by travel agents which account for around 80-85% of all ticket sales. In the Table the category 'standard tickets' relates to IATA interlineable tickets.

IATA comment

This section of the ACCC Discussion Paper is directed to the proposition, as noted in paragraph 10.97, that the sale of IATA fares in Australia is so insignificant ('an extremely rare event') that IATA tickets could not now be a public benefit.

Rather than respond to each paragraph, IATA has prepared a separate section of this submission dealing comprehensively with this issue: it is section 8.

Stated briefly, that section of this submission confirms that IATA fares remain important, directly and indirectly, for a large number of people travelling from Australia to destinations in other parts of the world and from other parts of the world to Australia. They do so both directly and indirectly.

10.96 IATA commented that the estimates are likely to underestimate the incidence of interlineability in business and economy class tickets because:

- the economy class 'Other tickets' category includes IATA excursion and other special fare tickets;

- around 17% of international passengers from Australia travel to New Zealand, a direct route on which there is little need for passengers to interline; and

- some tickets in the 'Other tickets' category may enable interlining within alliances and rely on the IATA interline system.
Table 10.2. IATA estimates of IATA Interlineable tickets processed by BSP Australia, by ticket category, 1 April 2003 - 31 March 2004

<table>
<thead>
<tr>
<th>Ticket category</th>
<th>First Class</th>
<th>Business Class</th>
<th>Economy Class</th>
<th>All Classes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard tickets (P, F, J, C, Y codes)*</td>
<td>61%</td>
<td>46%</td>
<td>18%</td>
<td>21%</td>
</tr>
<tr>
<td>Other tickets</td>
<td>39%</td>
<td>54%</td>
<td>82%</td>
<td>79%</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

* IATA states that these are the codes used for tickets interlineable with any other airline participating in the IATA multilateral interline system, whether an IATA member or not.

10.97 The estimates provided by IATA are not consistent with submissions and comments made by other parties who all advise, for example, that the sale of IATA full Economy Y Class fares, far from representing at least 18% of all economy fares sold, is an extremely rare event. In light of these comments, IATA has indicated that it is consulting further on this issue and revisiting the methodology used to gather the data in IATA’s submission.25

10.98 *Flight Centre*, the largest travel agency group in Australia, advised the ACCC that:

- It sold negligible amounts of full Y Class fares. It would sell an airline (as against IATA) business class seat or first class seat to a client before a Y class fare. The sale of a Y class fare was an absolute exception.

- It sold some IATA excursion economy fares for travel in Asia. Such fares were typically sold plus add ons for travel to limited destinations within a limited time frame. Not many IATA excursion fares were sold into Europe where passengers could access air passes and low cost carriers.

- There is little incentive for business travellers to purchase IATA business and first class fares. Business travellers rarely used full IATA fares and would see a global fare as providing better value than a full IATA fare.

- If a customer requested a fare to a destination requiring offline travel, the IATA interline fare was offered as an absolute last resort. FC travel consultants would look to compile the lowest cost travel itineraries from their fares data base, the range of net fares available, the lowest published fares, displays on CRS and round the world fares. Sometimes it was cheapest to use a net fare as the basis for travel and add on fares for additional segments. FC will also book low cost carriers as part of a travel itinerary.

- FC considered that IATA fares were effectively at levels which were only relevant to business travellers and therefore were little used by leisure travellers for tourism purposes.

25 IATA response to ACCC questions dated 22 April 2005.
10.99 Harvey World Travel advised the ACCC that:

- HWT's experience was that Y Class fares were a considerably lower percentage of economy fares than that claimed by IATA.

- HWT mainly sells to leisure travellers and IATA published fares are not often sold to leisure travellers. IATA fares are likely to be used mainly by business travellers.

- If a consumer asks for a fare to an offline destination HWT as a first step will look at options embracing the cheapest combinations of net fares and options available through alliances.

- Only when no combined net fare solutions can be found for an offline destination would HWT look at published fares as potential components of a mixed fare itinerary. Even then HWT would look at airline published fares rather than IATA published fares. HWT would not normally offer an IATA fare to a leisure passenger.

- HWT compiled quotes including low cost carrier legs and it was becoming more and more common.

10.100 American Express International advised the ACCC that:

- Amex's business is split 50/50 between domestic and international travel and of the 50% international 35% to 40% is point to point. Of the remaining 15% of international business most of it is intra Asia interlining where there is now more choice with low cost carriers. Amex may sell sector fares as this may be cheaper. Interlining also occurs through alliances which now have enormous reach.

- IATA fares would represent less than 15% of tickets sold by Amex, with the greater proportion of these for corporate clients. Because of the large number of corporate clients 70% of tickets sold by Amex are for first and business class travel.

- Amex considered the leisure market very price sensitive. IATA fares do not benefit tourism as tourists want cheaper fares. IATA tariff coordination arrangements would only be good if they did not lead to excessive prices.

- The number of passengers using IATA excursion economy fares on routes such as Sydney to London or other point to point routes would be very small. The level of those fares operates as a disincentive for people to use them.

10.101 Qantas advised the ACCC that:

- IATA fares do not represent more than 2% of economy fares based on JSA routes overall and much less on some routes. There is only a small gap between IATA full economy fares and business class fares and therefore there is little incentive for business travellers to purchase IATA full economy fares. Business travellers may use IATA full economy fares when a business class seat is not available on a sector of their itinerary.

- In the business market IATA fares create real choice for customers because IATA fares and market fares are closer.

- Qantas considered the detriment from IATA tariff coordination activities to be non-existent because very few people would pay IATA fares.

10.102 Air Vanuatu advised that it obtains feeder traffic from North America via Fiji and New Zealand and from Europe and North Asia via Australia. About 8% of Air Vanuatu's feeder traffic comes through the IATA multilateral interline system with the remaining 92% covered
by special prorate agreements or other commercial agreements which rely in part on the IATA system for their operation.

10.103 KLM stated that it provides offline services from Australia. It has code share services with Malaysian Airlines and special prorate agreements with Malaysian Airlines, Asiana, Qantas, Emirates, Garuda, Philippine Airlines and Air New Zealand. For routes or carriers where it does not have code share or commercial arrangements it relies on IATA interlining. KLM estimates 20% of its traffic from Australia to Europe would be on tickets issued at IATA fares.

10.104 Singapore Airlines submitted that in the year ended March 2004 fares agreed at IATA Tariff Conferences accounted for 10.7% of tickets on its flights from Australia. The percentage of fares varied from route to route with 5.6% of fares from Sydney to London being IATA fares while the equivalent figure for Sydney to Los Angeles was 13.3%. Within economy fares 5.2% of fares from Australia to Europe were IATA fares compared to 7.7% to Asia and the Middle East and 6.1% to North and South America.

10.105 United Airlines submitted that not many tickets are sold as full unrestricted economy Y class fares.

10.106 Japan Airlines, Lufthansa, Malaysian Airlines, Philippine Airlines, South African Airways and Thai International advised the ACCC that they did not have readily available information on sales of IATA tickets.

10.107 The ACCC believes that on the basis of the above submissions it could reasonably be concluded that very few IATA interline fares are sold for economy class travel for the purpose of either undertaking travel to offline destinations or gaining travel flexibility.

10.108 For price sensitive leisure travellers the price of the interline fares is simply uncompetitive relative to discount market fares. This disparity in price is evident for both point to point travel and offline travel.

10.109 IATA’s submission, for example, shows\(^{26}\) that at a point in time the one way market economy class fare from Sydney to London ranged from A$952 to A$2,244 (average A$1,245), compared to (at paragraph 27.23) an equivalent IATA full economy fare of A$5,911.

10.110 IATA has also cited\(^{27}\) an example of using an IATA interline fare for travel from Canberra to Chang Mai. The price of an economy return fare for this journey using the IATA Tariff Coordinated fare would be A$6,324. Qantas has advised that it could supply the travel at a cost of from A$1,627 per person.

10.111 For the less price sensitive business traveller, possibly seeking flexibility of travel, there is only a marginal difference in price between a full economy class fare and a market business class fare. The IATA submission shows\(^{28}\) that at a point in time the one way business class fare from Sydney to London using Qantas/BA was between A$5,420 and A$5,959 compared to the IATA full economy fare of A$5,911.

10.112 There was however still a reasonable gap from the market business class fare to the IATA business class fare of A$7,930. It remains to be seen how significant that gap is for business travellers. Certainly submissions suggest that the incidence of IATA first and business class fares is below the levels cited by IATA. The views of Amex, a specialist corporate travel agency, are particularly pertinent in this respect. Amex stated that business travellers are less price sensitive than leisure travellers. However corporate entities are still cost conscious and many would have negotiated their own deals with particular airlines. Amex stated that when acting for corporate clients, it is generally required to seek the cheapest fare.

\(^{26}\) Paragraph 27.20.
\(^{27}\) Paragraph 18.9.
\(^{28}\) Paragraph 27.20.
10.113 Qantas stated that in the business market IATA fares create real choice for customers because IATA fares and market fares are closer. Qantas also stated that the benefits of tariff coordination these days are in relation to complex itineraries in the business market while acknowledging that there are not a large number of such passengers.

10.114 The ACCC notes that IATA appears to have acknowledged in its submission that the primary beneficiaries of IATA interlineable fares are business travellers:

'Interlining is more important for those passengers taking longer, more complex journeys than for those taking shorter, non-stop flights. It is also more important for the business traveller segment of the market, which is more time sensitive and requires greater travel flexibility than leisure travellers and those visiting friends and relatives'.

Issue 10. Is it correct that IATA interlineable fares are rarely purchased by leisure passengers (who make up the majority of travellers), and only purchased with low frequency by business travellers?

IATA comment

It is neither correct nor consistent with information provided by third parties that in Australia interlineable fares are rarely purchased by leisure travellers nor is it correct that IATA fares are only purchased with low frequency by business travellers. IATA rejects both propositions and also the proposition that leisure passengers and business travellers constitute different markets.

How often do passengers utilise the flexibility conditions in IATA interlineable tickets?

10.115 While IATA interlineable fares provide potential increased flexibility for travellers the extent of any benefit will only be reflected in the frequency with which travellers utilise that flexibility. At the extreme it would clearly be difficult to recognise a benefit if no passengers utilised the flexibility.

10.116 No airlines were able to provide any advice on the extent to which IATA fare flexibility was actually used. The only comment made on this topic came from Amex which stated that 70% of the tickets it sold were for first class and business class tickets and very few of the passengers would use the interline facility offered by IATA fares.

10.117 Amex indicated that airlines net business fares provided total flexibility to passengers except the ability to change carrier and this was sufficient for most business travellers. Considering that international travel from Australia is long distance the main airlines provide enough flights through their own schedules. If a business traveller cannot catch their planned flight or that flight is delayed/cancelled they would prefer to catch the next flight from the same carrier. Travellers would not be interested in paying much more for a ticket for the flexibility to change routes in case an itinerary is disrupted because of bad weather.

10.118 IATA has submitted two sets of data to the ACCC in support of the premise that the proportion of IATA interlineable tickets which are actually used by passengers to interline is substantial. The first data is derived from a survey conducted by the UK Civil Aviation Authority at Heathrow Airport in 1998. The second information relates to turnover through the IATA Clearing House. For reasons described below the ACCC finds neither material persuasive.

---

29 Paragraph 22.16.
IATA claims that the results from its BSP analysis (as it appears in Table 10.2) can be compared to data from the Heathrow survey which showed that of the 19.3 million passengers making connecting flights through Heathrow in 1998, 49% were interlining to an airline other than the one on which they arrived at the airport.

The ACCC has examined the results of the Heathrow survey and notes they show that:

- the 19.3 million passengers making a change of flight came from a total population of 60.4 million passengers using Heathrow in 1998;
- of the 19.3 million passengers who changed flights, 9.8 million changed flights with the same airline and 9.5 million changed airlines;
- of the 9.5 million who changed airlines, 6.5 million changed flights between airlines between which there was no alliance or commercial relationship according to the July 1999 edition of Airline Business.

From the results of the survey therefore, at most 6.5 million passengers (11% of all passengers) could have been interlining using IATA interline fares. However the 11% figure also includes passengers travelling on fares subject to special prorate agreements between airlines so that the actual figure is likely to be significantly smaller.

The ACCC considers the Heathrow survey has limited relevance as guide to the incidence of IATA interline fares on Australian routes in today’s aviation markets. First, the experience at Heathrow, a major gateway to Europe, is hardly likely to be representative of the Australian position. Second, the survey was taken at a time when alliance activity between airlines was still at the developing stage. For example the Star Alliance and oneworld alliances had only just commenced operations (in 1997 and 1998 respectively).

IATA has stated in its submission that a total of $US31.1 billion in transactions was cleared through the IATA Clearing House in 2003 of which $US 19.2 billion (61.9%) was reported as 'Interlined passenger and cargo sales'. IATA claims that this figure, which represents settlement of international and domestic sales, indicates that 'Interlining' is quite significant given the tendency of domestic routes to be predominantly sold online.

The Commission notes that IATA has stated in its submission that total airline operating revenues in 2002 were reported by ICAO to have been $US312.5 billion. On these figures the interline sale transactions put through the IATA Clearing House represent at most 6% of global airline revenue. However this should not be taken as a guide to the likely level of IATA interline fare activity as the Clearing House data also includes settlement of alliance transactions. Qantas has advised the ACCC that in excess of 95% of revenue settled between Qantas and other carriers is processed through the IATA Clearing House. Settlement only proceeds manually when a multilateral or bilateral partner is not a member of the IATA Clearing House. On this basis IATA interlineable fares are likely to represent substantially less than 6% of all airline revenue. Such fares would represent a considerably lower percentage of the number of tickets sold given the relatively high cost of most IATA fares.

30 Paragraphs 22.1 and 22.2.
31 Footnote 174.
IATA comment

The ICAO figures include operating revenues for airlines' domestic and international services. The IATA Clearing House figures do not include billings between the Airlines Clearing House members. These mostly US airlines billings will include significant domestic revenue.

10.125 The ACCC believes that developments in aviation since IATA's Tariff Coordination activities were authorised in 1985 suggest that there is less need for the average business traveller, acknowledged by IATA as the primary seeker of flexibility, to purchase an IATA fare to obtain flexibility. Over that period there have been substantial increases in the number of flight frequencies by most airlines on point to point routes involving Australia supplemented by the flexibility inherent in the new developed facility of being able to travel across the flights of alliance partners.

IATA comment

As section 8 of this submission demonstrates, IATA fares remain important for a large number of people who buy tickets in Australia for travel to destinations around the world and for people who buy tickets around the world for travel to Australia. They facilitate that travel at both a direct and indirect level.

The conclusion in paragraph 10.125 that there is less need for the average business traveller to purchase an IATA fare is an acknowledgment that the need remains. For all of the reasons set out in this submission, including section 8, it is an enduring need.

Issue 11. Is there any reliable evidence available that indicates, contrary to information provided to the ACCC by Amex, that the incidence of travellers using IATA interlineable tickets to actually change airlines is not very low?

IATA comment

The answer to this question is yes. The facts establish that a large number of people buy IATA interlineable tickets each year in Australia for a range of reasons including the opportunity to change airlines when the need arises.

However, it would be a mistake to regard the incidence of travellers changing airlines as the true measure of benefit. The opportunity to change, and the insurance that provides, is just one benefit.

It would also be a mistake to assume that the quantum of people who may change airlines is an appropriate measure. A more meaningful measure is the importance of the need to change airlines for those who do so.

Even if there were low use of the flexibility of IATA fares this does not imply that those fares are of little value. The flexibility IATA interlining provides should be conceptualised as an insurance policy. Flexibility is an insurance.
Discussion of public benefits claimed by IATA

Access to through fares

IATA comment

IATA is concerned that the various views expressed in this and following paragraphs on the benefits of the IATA system are based on theory, limited examples, narrow analysis and incomplete consideration of the facts.

Passengers from Australia travel every day and in significant numbers, utilising the benefits the IATA system delivers, some directly and some indirectly.

Airlines, whether in alliances or not and whether large or small, participate in the MITA and join IATA because there are benefits in them doing so. That is the practical reality. IATA has attempted in its original submission, and in this response, to explain those reasons, but is concerned that the approach taken in the ACCC Discussion Paper has been to attempt to trivialise and minimise them all.

10.126 IATA has claimed that one of the most significant consumer benefits of interlining under the IATA system is that consumers have access to through fares which are developed by the Tariff Coordinating Conferences on most routes.

10.127 IATA states that it might be expected that airlines in constructing fares would set a price for each sector and compute the fare for a journey by adding together the prices for the sectors involved. Under this approach a passenger flight from Sydney to London via Singapore would be priced by adding the sector fare from Sydney to Singapore to the sector fare from Singapore to London.

10.128 However under the IATA system airlines agree a 'through fare' between Sydney and London by any routing within an agreed mileage allowance.

IATA comment

The sample stopovers on IATA normal fares in Appendix 1 to this submission demonstrate the flexibility in the IATA interline system.

10.129 IATA claims through fares provide consumers with a lower price than the sum of sector fares via any routing for the same journey in almost all instances. IATA has provided in its submission a table of fare comparisons which shows, for example, that for an economy one way fare from Sydney to London via Singapore the IATA through fare is US$3,081 while the sum of the IATA sector fares (Sydney/Singapore and Singapore/London) is US$3,704.

10.130 The ACCC has difficulty with the concept of finding benefit from having a lower IATA fare for travel between two points A and C via B than the sum of the IATA fares for the sectors A to B and B to C when it is the airlines who set all the fares. Indeed looked at from the perspective of sector fares the IATA fare comparison reflects poorly on the levels of those fares. Given the approach that airlines adopt at IATA Tariff Coordinating Conferences to the setting of many one way fares and given the relative price of market fares it is hardly surprising that airlines set through fares at rates lower than the sum of sector fares.

10.131 One way sector fares set at IATA tariff coordination conferences are often deliberately inflated to be higher than half of a return fare. For example at the November 2000 TC3 Conference in Bangkok, for excursion fares between China and Australia, airlines agreed to establish round

---

32 Table 8.
trip fares by doubling the then one way fare and then re-establishing one way fares at 55% of the new round trip levels. At the same conference one way fares between Australia and Japan/Korea were set at 60% of return fare levels. There is a propensity therefore for sector fares in the IATA system to be deliberately set high.

<table>
<thead>
<tr>
<th>IATA comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To compare like to like IATA compared one way fares to one way fares. However as round-trip discounts are fairly constant a comparison of ½ round trip to ½ round trip will produce similar results.</td>
</tr>
<tr>
<td>Airlines have chosen to introduce round trip discounts into IATA normal fares due to the reality that few passengers actually travel on a one-way basis and these consumers often have access to reduced fares established for their needs; immigrant fares, youth fares, student fares, ship’s crews, etc.</td>
</tr>
</tbody>
</table>

10.132 The public benefit associated with the IATA through fare from Sydney to London via Singapore might be considered in the context of a market one way fare from Sydney to London. Table 29 of the IATA submission shows an average one way market economy fare for 16 airlines of A$1,245 compared to the IATA through fare of A$3,95033 (US$3,081) and the sum of IATA sector fares of A$4,749 (US$3,704).

<table>
<thead>
<tr>
<th>IATA comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>The IATA through fare is not only available for travel via a single connecting point. As shown in Appendix 1 to this submission, passengers travelling from Sydney to London on an IATA fare can choose to travel via numerous connecting points. For example a passenger on such a fare could travel via Asia, the Middle East and Europe.</td>
</tr>
<tr>
<td>In addition the IATA fares may be combined permitting travel, for example, via Africa in one direction and via North America or Japan/Korea in the other.</td>
</tr>
</tbody>
</table>

10.133 The ACCC questions the extent of any benefit which results from airlines agreeing a fare which is 217% higher than the average market fare for a point to point journey, with no need to interline and a choice of 16 airlines on the route.

<table>
<thead>
<tr>
<th>IATA comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>It would be unlikely that a consumer travelling point to point and wanting to do so as cheaply as possible would find that the IATA product the best choice.</td>
</tr>
<tr>
<td>However the ‘average market fare’ will not provide him or her with multiple free stopovers at cities of their choice and the flexibility to make changes as their plans change.</td>
</tr>
</tbody>
</table>

33 Based on A$1.00 equals US$0.78.
Issue 12. Why should the public benefit from IATA ‘through fares’ on routes where market fares are freely available not be regarded as being at best marginal?

IATA comment

Inherent in this question is the erroneous assumption that IATA fares are rarely used.

The benefit of IATA fares is that they provide an alternative, even on routes where there are market fares. That benefit is a real benefit. It is not marginal, especially for those passengers who need the flexibility that IATA interlining provides. Assessment of public benefit is not merely an arithmetic exercise.

The ACCC Discussion Paper proceeds on an assumption that the IATA product is comparable with a flight taken on a single airline on any given route (eg Sydney - London). That is not so. A passenger travelling online on a route will have limited stopover/transit choices. By comparison, a passenger travelling on an IATA interlineable ticket will have a multitude of choices. For instance, between Sydney and London on an IATA interlineable ticket, depending on the routing chosen the passenger may stopover at or transit through as many as 15 intermediate destinations on a single journey - something not possible on any single airline or alliance.

Access to connecting services

10.134 IATA has claimed that connecting services give passengers the opportunity to travel between city pairs that are either not served by an online service or, where the online service operated by one airline is limited in frequency, not operated at the desired time of the day or day of the week, or is fully booked at the time and date requested.

10.135 The ACCC will first look at benefits associated with the provision of connecting services for travel between city pairs not served by any online service. In looking at route access the ACCC will also take into account the cost of travel. If the price of travel off line using IATA fares between two points is too high for most travellers there is a question as to whether such travel is accessible.

10.136 Travel off line on IATA fares can take two forms, using fares agreed between the relevant points, usually capital cities or major business centres, at IATA Tariff Coordinating Conferences or using fares constructed from IATA agreed fares plus add on fares which normally relate to travel within a specific country.

IATA comment

The ACCC is making an unwarranted distinction between a fare ‘specified’ and a fare ‘constructed’ using add-on amounts.

As explained elsewhere the use of add-ons is to simplify the complex negotiation process and to achieve cost savings in tariff publishing and distribution. A constructed fare from Adelaide using an add-on amount added to the fare from Sydney has exactly the same characteristics as the fare from Sydney.

10.137 The ACCC has examined the range of agreed city pair IATA fares for travel between Australia and Europe and Australia and South East Asia to ascertain the extent to which agreed fares might provide access to off line travel destinations.

10.138 Given that Qantas has advised the ACCC that it has special prorate agreements with international carriers visiting Australia which provide access to points in Australia beyond
gateways, the ACCC has confined itself to examining international destinations accessible
from Sydney.

10.139 IATA fares for travel between Europe and South West Pacific (which includes Australia)
appear in tables submitted by IATA as follows - *Memorandum PTC23 EUR-SWP Fares* - 47 -
*TC23/123 Europe-South West Pacific Specified Fares Tables - effective 1 April 2004.*

10.140 Those tables show IATA agreed fares for travel from Sydney to 46 destinations in Europe. An
examination of the destinations by the ACCC has shown that 43 of the destinations are
available through the online services of airlines and two (Bratislava and Skopje) are accessible
through combining sectors of airlines in the Star Alliance. The only destination where offline
travel is necessary is Reykjavik in Iceland. IATA return economy fares (excluding taxes)
from Sydney to Iceland are A$10,814 (full economy) and $4,404 (August 2005 excursion
fare). The total cost of a fare constructed from Qantas and Icelandair market sector fares is of
the order of A$2,880 for travel at the same time.

IATA comment

Add-ons are used extensively on both ends of the route. Typically one will find IATA fares
specified to one city in each country with fares to other points being constructed using add-ons. In
this example the IATA fares tables would have a fare to Zurich from Australia, but not to Geneva,
Berne, Basle, or Lugano. However IATA (constructed) fares exist for all of these cities.

10.141 IATA fares for travel between South East Asia and South West Pacific appear in tables
submitted by IATA as follows - *Memorandum PTC3 Fares 0270* - TC3 between South East
Asia and South West Pacific Specific Fares Tables - effective 1 April 2004.

10.142 These tables show IATA agreed fares for travel from Sydney to 20 destinations in South East
Asia. An examination of the destinations by the ACCC has shown that 18 of the destinations
are available through on line services. Macau is accessible through the combined sectors of
China Air and Air Macau for $2,242 compared to an IATA fare of $5,516. Novosibirsk does
not seem readily accessible even through off line services.

10.143 To judge by these tables of IATA agreed fares, the predominance of city pairs for which IATA
fares are agreed are serviced by online services. However it is possible that destinations
beyond those city pairs reached through the use of constructed fares and add ons are those
where access to off line services is most required. Questions of note are whether or not IATA
constructed fares constitute the only means by which those destinations can be accessed and
whether or not the cost of access is reasonable.

10.144 Constructed fares are compiled using the sum of an agreed city pair fare and a fare from add
on tables which generally represent the domestic fares in the country of the city concerned.

10.145 IATA has provided in its submission an example\(^{34}\) of interlining access benefits in the case of
a passenger wishing to fly from Canberra to Chang Mai in Thailand. IATA states that the
passenger can purchase an IATA through fare that will be accepted by both Qantas and Thai
Airways International, on a single ticket paid for in a single currency. Without interlining the
passenger would be obliged to buy tickets individually from Qantas and Thai in two separate
non connected bookings. The two flights would not be computer linked. The passenger
would have to collect and transfer his or her own baggage at intermediate points and a missed
flight on the sector would be indistinguishable from a 'no show'.

10.146 The IATA constructed return economy fare for travel from Canberra to Chang Mai would be
of the order of A$6,324 being constructed as follows:

\(^{34}\) Paragraph 18.9.
10.147 What is apparent from the fare construction is the substantial impact of the very high agreed city pair fare component and how it results in a fare with a price level out of reach of most travellers. Qantas has advised the ACCC that it is able to offer a return fare from Canberra to Chang Mai at from A$1,627 per person using the combining of a Qantas fare from Canberra to Bangkok and a Thai Airways fare from Bangkok to Chang Mai. Qantas has noted that as there are many ways to calculate an itinerary such as the one described, it would be rare for a customer to have no choice but to use the IATA fare. The ACCC notes that another way would be to travel from Canberra to Sydney with Qantas and from Sydney to Chang Mai via Bangkok with Thai International.

IATA comment

The ACCC has compared a fully flexible full economy fare with an excursion market fare. This is not a realistic or fair comparison. The comparison should be with a carrier specific full economy fare. Although the Thai International website does not quote a fare from Canberra to Chiang Mai, it currently quotes a flexible fare of $6,106 from Sydney to Chiang Mai.

When IATA was requested to provide the IATA fare from Canberra to Chiang Mai, it was in the context of where to find the IATA fare as it was not specified in the fares tables provided with IATA's original submission. IATA responded with a detailed explanation of how fares are constructed using add-on amounts. In its response, IATA noted that the constructed fare applied for any reasonably direct routing between the two cities including via Adelaide, Denpasar and Bangkok, or via Melbourne and Phuket, or via Singapore and Vientiane, or other more direct routings. At the IATA fare different routings can also be used on the outbound and inbound journeys - allowing consumers to choose the schedules and intermediate connecting points that best serve their needs.

10.148 The ACCC notes that it is most likely that Canberra - Chang Mai travel would be purchased from a travel agent rather than direct from Qantas and Thai. Submissions from agents indicate that a consumer can purchase a single ticket in one currency from an agent for travel on non IATA fares across the two airlines.

10.149 The ACCC would be surprised if most international carriers did not have special prorate agreements in place with airlines in countries to which they operate covering domestic services in those countries. Access to such services would allow individual airlines to construct through fares beyond their own networks based on their own net fares resulting in fare levels accessible to many more consumers.

IATA comment

IATA does not collect or review special prorate agreements but is surprised that the ACCC could reach this conclusion with the evidence that it has.
10.150 Overall it seems to the ACCC that there is scope for concluding that there are only extremely limited benefits from IATA Tariff Coordination in providing connecting services for travel between city pairs not served by any online service:

- city pairs covered by IATA agreed fares are generally accessible by online services;

- while IATA constructed fares may enable consumers to reach destinations not accessible through online fares, being based on high agreed fares, they are extremely expensive and likely to be out of reach of most consumers, particularly leisure travellers; and

- the number of destinations where travellers have to resort to IATA interline fares to reach them has been dramatically reduced as a result of increased airline network with the spread of alliances, code shares and special prorate agreement and the advent of low cost carriers.

### IATA comment

This paragraph is one example of the reason for IATA's concern that the ACCC has made up its mind about the matter.

The facts do not support the conclusion that 'there are only extremely limited benefits from IATA Tariff Coordination'. As this response submission demonstrates, the contrary is the case. The ACCC Discussion Paper has made a fundamental error in equating IATA normal fares with online fares on thick routes.

The implicit assumption that no one would take an IATA normal fare on thick routes where there is a cheaper online fare is factually incorrect. People do so every day.

10.151 These finding are consistent with views put to the ACCC in submissions that IATA interline fares are little used except by a few business travellers with complex itineraries. The ACCC notes business travellers make up only around 12% of passengers travelling to and from Australia. The ACCC also believes that most business travel is likely to be to major business centres rather than remote localities. Amex submitted that very few of its clients, for example in the mining industry, travelled to out of the way destinations.

### IATA comment

American Express also stated that their business was split 50/50 between domestic and international and that IATA fares would represent less than 15% of the tickets they sold. Although IATA believes that the American Express experience is not reflective of the overall position, if only 'some' business travellers seek this facility, and if by 'some' American Express was referring to about 15%, then that is a significant figure and not inconsistent with other reported levels. The comment that few clients travel to out of the way destinations would suggest that there is significant demand for the IATA product to major cities, at least from American Express' clients.

10.152 The ACCC will now look at benefits claimed to arise from the IATA system through accessing connecting services that give passengers the opportunity to travel between city pairs where the online service operated by one airline is limited in frequency, not operated at the desired time of the day or day of the week, or is fully booked at the time and date requested.

### IATA comment

IATA draws attention on this point to paragraphs 18.7-8 of IATA's original submission.
10.153 IATA has provided in its submission\textsuperscript{35} the example of a passenger flying from Sydney to London on Singapore Airlines via Singapore who because of an originating flight delay misses the connecting flight from Singapore to London. IATA claims that with an interlineable ticket the passenger could have the second leg of his or her trip re-routed on to Swiss International Airlines via Zurich or could take the Qantas or British Airways flight from Sydney to London. The re-routing could be handled by the airlines as a matter of routine, with minimum paper because airlines participating in the IATA multilateral interline system agree to accept any passenger ticketed at an IATA fare without the need to negotiate ad-hoc agreements on a case by case basis.

10.154 For the ACCC an important question is whether a passenger would be prepared to pay the additional cost of an IATA fare over a market fare to secure the flexibility utilised in the example put forward by IATA to cope with a delayed flight. According to IATA the cost\textsuperscript{36} of a one way economy Sydney to London via Singapore fare is $US3,081 (around A$3,950) while the equivalent average market fare is around A$1,245\textsuperscript{37}.

\begin{boxedquote}
IATA comment

The fare comparison made in paragraph 10.154 is an inaccurate comparison because the two fares noted are not comparable, let alone 'equivalent'. Further, the proposition that 'the equivalent average market fare is around A$1,245' is an incorrect interpretation of Table 29 in IATA's original submission.

Table 29 provides a cross section of one-way fares as shown on the www.travel.com.au site in June 2003 for travel in November 2003. It is illustrative only of one set of fares then available. The fares on that day ranged from $966 to $2,244. It is not possible to take an average from that table - they are merely examples of the fares available on the day.

As it is illustrative, the table makes no allowance for the restrictions that apply, the number of seats in the relevant 'buckets' or the period of availability. All that can be said is that on the day the table was prepared, one of the economy fares available is the fare listed. Table 4A in Section 4 of this submission provides a further snapshot of the range of economy fares available on the Sydney-London route on 13 September 2005. However that table does not contain all the various fares available in all 'buckets' nor does it show the conditions applicable. In addition these fares are liable to change regularly.

Furthermore, as explained in comments on earlier paragraphs, in seeking to make comparisons between market fares and IATA fares the most appropriate fare to use is the IATA special fare. The IATA fare of $US3,081 cited in the ACCC Discussion Paper is the normal fare. The IATA special fares on the Sydney - London route at the relevant time were $2,034 to $2,562 one way. The return IATA special fare was $3,387 - $4,264. These are, of course, year round fares with interlineability.

IATA's response deals with the particular example the ACCC Discussion Paper has chosen, but on most thick routes served by online services there will normally be an IATA special fare that provides a fairer point of comparison.
\end{boxedquote}

\textsuperscript{35} Paragraph 18.10.
\textsuperscript{36} Table 8 in its submission.
\textsuperscript{37} Table 29 in its submission.
10.155 It seems to the ACCC that when considering whether to pay the higher cost of an IATA fare over a market fare, a passenger concerned at the possibility of a missed connection would take into account:

- the risk of a missed connection;
- whether or not the carrying airline was obliged to find a connecting later flight;
- the frequency of flights offered by the carrier concerned, either in its own right or in alliances with other carriers; and
- whether travel insurance covered missed connection consequences.

10.156 The ACCC notes that air travel itineraries are constructed taking account of 'minimum connect times' at international airports which provide some leeway for slight delays. While acknowledging the occurrence of the occasional rare disruptive event, the ACCC has seen no evidence to suggest that delays in international flights sufficient to cause the missing of international connections are at such levels to be a general problem in the industry. The ACCC also notes that on the long haul flights typically involved in travel to and from Australia there is an opportunity for airlines to make up time in flight. Overall there appears to be no information in the market which would lead a traveller to pre-emptively purchase an IATA fare because of a perceived high risk of a missed connection.

IATA comment

IATA rejects the proposition that passengers (and the travel agents booking flights for them) do not include in their consideration of factors that lead to their choice of ticket, the possibility of missing a connection. IATA's comment on paragraph 4.5 above provides examples of the consequences if this is not taken into account. For some passengers this is a more important issue than for others, but the same applies to each one of the range of choices a passenger can make. For those who are time sensitive, whether because of a business meeting or an important family occasion, avoiding delays through missed connections can be quite crucial.

10.157 As far as the ACCC is aware, in the example provided, Singapore Airlines would be obliged to find onflights to London for all passengers who missed their connection at Singapore, regardless of whether they were travelling on an IATA fare.

IATA comment

If a passenger is on a through ticket and there is a delay or missed connection during the journey, the airline will simply re-book the passenger on the next available flight, in the relevant class, on the originally booked airline. If those flights are full and the passenger wishes to re-book on some other airline he or she will not necessarily be entitled to do so. That is a matter of individual airline commercial choice. In any event, the statement assumes that Singapore Airlines has sufficient capacity on their subsequent flights.

If, however, the passenger is travelling on an interlineable IATA ticket, where flights are fully booked the passenger can have his or her ticket re-routed to travel via a different routing or on the services of a different airline.

Where the passenger has elected to buy separate tickets for the journey and there is a missed connection, the airline has no responsibility to the passenger. Whether the passenger is accommodated on another flight or has to buy a new ticket will depend on the type of ticket originally purchased, but if the passenger bought the lowest priced economy ticket, with a fixed flight requirement, the passenger would simply be a 'no show' and have to buy a completely new ticket in the currency of the country in which the purchase takes place.
10.158 The ACCC understands that Singapore Airlines offers at least four flights per day, staggered through the day, from Singapore to London so that depending on seat availability there is an opportunity for passengers who missed their connection to be accommodated within the same airline. IATA has raised the possibility of passengers interlining with Swiss International Airlines over Zurich. The ACCC believes a more realistic possibility is that Singapore Airlines, if it could not find seats on its own flights, would look to secure space on indirect flights to London of the six Star Alliance carriers who operate to Singapore, being All Nippon, Asiana, Austrian Airlines, Lufthansa, SAS and Thai International.

IATA comment

Without the multilateral interline system this is likely what would occur. However the best option for the passenger, and in particular time-sensitive travellers may be to travel on the direct services of two oneworld alliance carriers who operate direct services to London.

10.159 The ACCC has examined a number of travel insurance policies covering travel to Europe via South East Asia and they generally provide for substantial compensation for disruption to a journey as a result of travel delays.

IATA comment

The policies the ACCC Discussion Paper considered have not been disclosed so IATA is not in a position to comment on them specifically, but IATA points out that:

- where a new ticket is required it has to be purchased on the spot. An insurance claim may later be made but that will be of little comfort to the passenger who does not have the means to pay for the ticket in the first place;
- insurance policies do not guarantee space on the aircraft. Very low fares are normally sold well in advance so there may not be seats available on the spot. Whether or not the policy reimburses higher ticket costs will depend on the terms of the policy;
- most insurance policies involve a deductible amount; and
- whether or not the insurance policy reimburses accommodation and other delay costs will depend on the terms of the policy.

10.160 When all the above factors are taken into account overall it does not appear to the ACCC that there is a convincing reason why any passenger travelling Sydney/Singapore/London on Singapore Airlines would consider committing to the substantial premium of an IATA fare in case of flight delays.

10.161 Indeed it would appear to the ACCC that the reasons identified above as negating the need for purchasing an IATA fare, such as individual airline flight frequencies and alliance linkages, represent factors which more generally have reduced the extent of any connection benefits from IATA fares on routes where on-line travel, including through alliances, is available.
IATA comment

This paragraph is another example of IATA’s concern that the analysis in the ACCC Discussion Paper is poor and lacks balance.

The ACCC Discussion Paper in the preceding paragraphs concentrates only on one aspect of IATA’s original submission in respect of access to connecting services. IATA submits that consumers receive significant benefits by being able to choose their route of travel, intermediate connecting and stopover points and flight timing.

Issue 13: Has the extent of any public benefit associated with access to connecting services through the use of IATA multilateral interlining been substantially reduced by the extensive reach of on-line air services, the high cost of accessing connecting services using IATA agreed fares, strong growth in airline frequencies on major routes and alliance linkages?

IATA comment

IATA rejects the proposition, expressed in this question, that there is a high cost of accessing connecting services using IATA fares.

The other factors mentioned do not remove the benefits of IATA interlining. They merely provide an alternative to it in some circumstances, reinforcing the competitive nature of the international airline market and the range of choice available to consumers.

Flexibility for time-sensitive passengers

10.162 IATA has submitted that IATA Tariff Coordination gives rise to a public benefit because passengers who choose to buy IATA interline tickets have the ability to:

- change the date and time of their ticket
- cancel their ticket and receive a refund
- depart without a return reservation
- change airlines;
- change routes (subject to certain distance limits)
- add or delete stopping points.

10.163 IATA has submitted that while on-line and alliance services can provide some of these benefits, no single airline or alliance of airlines can provide them all and none can provide any of them on a world wide basis.

10.164 IATA indicated that these benefits are linked to the Tariff Coordination mechanism. The existence of a previously agreed fare and sharing formula (prorate) makes it possible to access these benefits without any two airlines having to agree on an ad hoc basis. In the case of re-routing, a new ticket can be issued quickly at the airport or the existing ticket endorsed and accepted. If a passenger has a ticket which permits him or her to travel only on the issuing airline, a change of airline is very difficult.
Many of the features of the IATA Interline ticket identified by IATA are available on airlines' own tickets. For example on 10 March 2005 the Qantas website was offering three economy return fare types for travel from Brisbane to Singapore on 10 May 2005. A Sale fare type for A$1,039, a Super Saver for A$1,173 and a Flexi Saver (described as 'travel with more flexibility') for A$1,435. The Flexi Saver fare allows date changes, route changes (for A$50 per change) and cancellation (for a fee of A$275). The IATA return economy fare on the same route is A$4,386.

**IATA comment**

This paragraph is another example of IATA's concern that the analysis in the ACCC Discussion Paper is poor.

The ACCC Discussion Paper is comparing IATA fully flexible normal fare with less flexible market fares. This is not a comparison that can be made because of the fundamentally different benefits that apply with the IATA fare and the limitations on the quoted Qantas fares. The Qantas fares are appropriate for some passengers and not for others. They will presumably be some of a range of Qantas fares on the route with different conditions and limitations, including a limitation on the number of seats that can be purchased at those fares. They will not be of much assistance to passengers travelling to other destinations through the Singapore hub. As Table 8A in Section 8 of this submission shows, passengers transit Singapore to over 200 other countries, including Ecuador, Slovenia, Tunisia, Yemen and other countries in Africa, the Middle East and Asia.

On this route there are no equivalent IATA fares.

As indicated by Amex in a submission to the ACCC the only feature available to time sensitive travellers from IATA fares that is not available from airlines' own flexible fares is the ability to change airlines. Amex indicated that airlines' own flexible fares were sufficient for most business travellers who are not looking for the flexibility of changing carriers.

**IATA comment**

IATA has earlier stated its objection to treating the record of meeting as a submission by American Express.

It seems clear from the American Express record of meeting that 'some' business travellers who use American Express are looking for the flexibility of changing airlines. American Express also advised the ACCC that 'IATA fares would represent less than 15% of the tickets AMEX sells'. Although IATA believes that the American Express experience is not reflective of the overall position, if only 'some' business travellers seek this facility, and if by 'some' American Express was referring to about 15%, then that is a significant figure and not inconsistent with other reported levels.

It would appear to the ACCC that any benefit of the type described by IATA as accruing to time sensitive passengers from IATA interline fares are limited and are only utilised by a very small number of passengers.
Issue 14. To what extent is the value of any public benefit associated with IATA multilateral interlining providing flexibility to time sensitive passengers diminished when taking into account the availability of similar flexibility in airlines' own fares and the limited number of travellers who seek and utilise such flexibility?

IATA comment

In summary, the benefit for those who choose to use the IATA product remains as it always was and the availability of other fares does not diminish this.

The explicit assertion that there is a 'limited number of travellers who seek and utilise' the flexibility provided by IATA interlining is an assumption not supported by the facts.

To the extent that this question implies that the flexibility inherent in an IATA fare is only relevant to time-sensitive passengers, that implication is wrong. IATA flexibility has many facets including the flexibility to book a journey which suits the need of the consumer, choosing from the schedules of all participating airlines, and the flexibility to change routings, intermediate stopping points or other aspects.

Baggage connectivity

10.168 IATA has claimed that the IATA interline system allows passengers to check their baggage in at their departure airport and have it arrive at the passenger's destination, handled from one airline to another at each point in the journey at which the passenger changes airlines.

10.169 IATA claimed that without interlining either the passenger would have to collect his or her bag at each intermediate point in the journey, clear customs at that point and re-check the baggage on the next airline, or the airline would need to negotiate bilateral through check in baggage agreements.

10.170 Submissions received from travel agents suggest that baggage check through is not necessarily a product exclusive to interlining. Amex commented that as long as the technology exists, through baggage can be done without tariff coordination. Amex considered that it may be more rational for airlines to charge a fee for baggage to be checked through rather than paying very expensive IATA fares.

10.171 HWT submitted that the through checking of baggage was dependent on the preparedness of airlines to enter into interline agreements with each other and was not an exclusive product of IATA fares.

10.172 From the ACCC's perspective if IATA has claimed a public benefit from the check through of the baggage of passengers travelling on IATA interline tickets then the extent of the benefit will be determined by the number of passengers who not only purchase interline tickets but also change airlines using the tickets. Earlier discussions and submissions suggest the number of such passengers is quite small.

10.173 As suggested by submissions the ACCC believes that baggage check through is not limited to IATA interline tickets. The ACCC understands that most airline alliance arrangements feature baggage check through across alliance members. Moreover there appears to be no reason why the extensive baggage check through that occurs on non-IATA fares would not occur absent Tariff Coordination.
The ACCC would also note that the extent of any check through benefit is also constrained by the limited ability of airlines to check baggage across Customs. Earlier reference was made to an example cited by IATA of travel on an IATA fare between Canberra and Chiang Mai where IATA also referred to baggage check through benefits on the route.

Baggage would only be available for check through on this itinerary for the travel from Canberra to Bangkok and then the benefit would only occur if Qantas and Thai were used for the Canberra/Sydney and Sydney/Bangkok legs respectively. If Qantas was used for the Canberra/Sydney/Bangkok travel the baggage would be checked through by Qantas regardless of the ticket.

At the Thailand end baggage cannot be checked through across Bangkok to Chiang Mai as it has to clear Customs. Even on the return leg baggage cannot be checked through from Chiang Mai to Sydney as in Bangkok Customs/security scrutinise all international luggage loaded on international flights from Bangkok.

IATA comment

IATA has not checked the accuracy of this example, but even if it were correct, it is only one example. While the position differs around the world, in many international airports there are baggage recheck points in the customs hall immediately after customs clearance where the passenger on an interline (or online through) ticket can deposit the luggage for continuation of the journey. The passenger who elects to take separate tickets may have to take the baggage to the next airline, in many places in a separate terminal, and re-check it for the next flight.

While it is correct that this is not an exclusive product of IATA fares, it derives from the fact that IATA members have established standards and procedures for baggage connectivity for the IATA Multilateral Interline System. There is some doubt that IATA members would be willing to devote the resources necessary to maintain such connectivity should the Multilateral system disappear. As mentioned elsewhere some airlines will no longer accept or transfer baggage for customers who are travelling on separate tickets.

Issue 15. Why should weight of any significance be attached to any public benefit arising from baggage check through, given the widespread availability of baggage check through on non-IATA fares, its limited application and the few travellers who actually change airlines when using IATA fares?

IATA comment

Bilateral baggage connectivity as we know it today hangs off the standards and procedures established through IATA, but that connectivity is not nearly as widespread as the question implies and is receding.

IATA baggage connectivity is one of the core benefits of the IATA interline system.

As cost-cutting measures continue in the industry airlines will cease offering bilateral interlining of baggage. This is already occurring.a

The explicit assertion that 'few travellers … actually change airline' is an assumption not supported by the facts.

a. For instance BMI has recently announced that it will cease interlining baggage except for online or IATA interline services: http://www.flybmi.com/bmi/en-us/travelinformation/throughcheck-in.aspx
**Lower transaction costs**

10.177 IATA has claimed that costs are lower than would be involved if airlines had to agree bilaterally to transfer passengers. These cost savings are reflected in lower airline costs and therefore lower cost to the consumer. Each time an interlineable fare is requested it may be quoted without the need to seek ad hoc concurrence from other airlines involved in the transportation. If and when the passenger requests a change in airline or a change in routing this change may be done by the airlines shown on the ticket and in some cases by other airlines.

10.178 If the purchase and utilisation of the flexibility inherent in IATA fares is as low as it appears to the ACCC then the cost saving to airlines claimed by IATA would appear to be minimal.

10.179 As discussed earlier the need for flexibility is probably only recognised by a small number of business travellers. Such travellers are likely to have their travel arrangement organised by specialist travel management companies under contract and rely on those travel management companies to handle their total travel requirements, including changes in itineraries. In the modern era communications from overseas with such companies is readily undertaken through mobile phone and email systems.

10.180 In terms of costs the ACCC believes it is relevant to ask whether, given the apparent small and decreasing number of travellers who purchase and use the interline facility of IATA fares, the IATA Tariff Coordination system reduces or adds to the cost of airlines. The cost of the IATA infrastructure required to operate and support the Tariff Coordination system and the costs to IATA and airlines of holding and attending multiple international tariff conferences per year is likely to be substantial. It is possible that overall the IATA Tariff Coordination system can add to the costs of airlines and consumers.

10.181 The ACCC notes in this respect that IATA stated\(^\text{38}\) in its submission that many of the 139 IATA member airlines which do not participate in the IATA Tariff Coordination Conferences are small regional operators who may not be able or willing to extend the resources necessary to participate in the conferences.

---

**IATA comment**

IATA's submission in paragraph 14.18 of its original submission was in respect of the 22 IATA members at that time who provided domestic operations only. Air Vanuatu is an example of an IATA member which does not participate in the IATA Tariff Coordinating Conferences. It supports the IATA application and willingly accept passengers wishing to interline on its services at IATA fares.

---

\(^{38}\) Paragraph 14.18.
Issue 16. How can there be lower transaction costs of any significance given the limited number of travellers who interline using IATA agreed fares? Would the cost of administering and operating the IATA Tariff Coordination system offset at least in part any lower transaction cost benefits?

IATA comment

The explicit assertion that there is a 'limited numbers of travellers who interline using IATA agreed fares' is an assumption not supported by the facts.

Tariff coordination is a means by which smaller and non-aligned airlines can participate in the global market and larger airlines without a significant presence in Australia can provide service to and from Australia. If tariff coordination is removed this will increase market concentration.

Opportunity for smaller airlines to compete

10.182 IATA has claimed that the IATA interline system allows access to network economies for all airlines, rather than only for those who are large enough to operate substantial networks or are in alliances. It is also claimed to provide feeder passengers for airlines, large and small, which have limited operations in the South Pacific. In its submission IATA has provided a table, Table 24, which claims to list airlines serving Australia which are not in one of the major alliances and which in many cases rely on IATA interlining for feed traffic. The airlines in Table 24 are claimed to account for 28% of traffic to and from Australia.

10.183 IATA has stated that an airline operating a daily Boeing 767 return service at a 70% break even load factor would need a total of 130,000 passengers per year to cover its costs. IATA has asserted that in the Australian market which is described as being characterised by relatively thin international routes, it would be very difficult for an airline to operate on a point to point basis without feeder traffic, except possibly to Auckland and Denpasar, as an extension of domestic services.

10.184 IATA has claimed that by participating in the IATA Interline process all airline participants have the opportunity to extend their networks beyond the cities to which they operate their own services, by accessing through mutually agreed fares, the networks of other airlines. IATA considers this especially important for small and regional airlines that through the Interline system they can obtain much greater scope in the number of origin/destination pairs they can offer and greater economies of density on the routes they serve. They can achieve this by participating in the IATA Tariff Coordinating Conferences and/or simply by joining the IATA Multilateral Interline Traffic Agreement.

10.185 While IATA has submitted a public benefit from claimed increased opportunities for airlines to compete, it would appear to the ACCC that it could be argued that this particular claim could be better submitted within the framework of competitive detriment rather than public benefit. However, for the purpose of this paper the claim will be examined in the benefit context. This approach should not be seen as implying that the ACCC would accept it as a benefit issue for the purposes of issuing a determination.
The ACCC believes that for a number of reasons there must be doubts that the IATA Tariff Coordination and Interlining system provides benefits in the form of significantly enhanced opportunities for small airlines, such as operators in the South Pacific, and airlines not in alliances to compete.

**IATA comment**

IATA rejects the view expressed in this and following paragraphs. It is another example of the concerns IATA has expressed about the narrow analysis and incomplete consideration of the facts.

Small airlines participate in the MITA and join IATA because there are benefits in doing so. That is the practical reality. IATA has attempted in its original submission, and in this submission, to explain those reasons, but is concerned that the approach taken in the ACCC Discussion Paper has been to attempt to trivialise and minimise them all.

The treatment of Air Vanuatu is an example. Instead of concentrating on the positives with the system that airline reported, the ACCC Discussion Paper puts a negative slant on it. Air Vanuatu reported that 8% of its feeder traffic comes through the MITA - a percentage no doubt of crucial importance to the airline's bottom line.

In earlier discussion the ACCC expressed the view that the level of passenger traffic interlining on IATA fares appeared to be small and declining. There is no reason to expect that it should be greater for regional and airlines not in major alliances than other airlines.

The main users of interline fares are business travellers who are less likely to be travelling to regional destinations and tourist areas such as the South Pacific than to business centres. The high level of IATA fares is unlikely to be attractive to tourists considering travelling to areas such as the South Pacific.

Most travel between Australia and South Pacific islands is by Australian residents rather than island residents. Air Vanuatu, for example, has submitted that only 15% of its passenger traffic originates in Vanuatu. Regional carriers are well served for feed by Australian domestic carriers. Qantas has code shares on Air Pacific to Fiji, Air Calin to New Caledonia, Air Niugini to Papua New Guinea, Polynesian Airlines to Samoa, Air Tahiti to Noumea and Air Vanuatu to Vanuatu.

The issue of whether or not IATA Tariff Coordination and Interlining provides feed for South Pacific carriers from other parts of the world is not relevant to this matter as it would not appear to provide a public benefit for Australia.

**IATA comment**

The ACCC Discussion Paper overlooks the fact that the opposite provides benefits to Australians. *i.e.* by giving Australian travellers access to parts of the world where no direct, or reasonable online connections exist.

Regional destinations are increasingly being serviced by low cost carriers which offer the opportunities for travellers to access tourist destinations such as the South Pacific without the need to access expensive IATA fares. Virgin Blue, the low cost Australian carrier, for example, is now providing services from Australia to the Cook Island, Fiji, New Zealand and Vanuatu.
Most small airlines or airlines not in alliances listed in Table 24 have commercial relationships with other airlines which provide them with feeder services. Ten of the 29 airlines listed have code share or equity relationships with Qantas alone, such as JAL, and Australian Airlines. Other airlines listed such as Malaysian Airlines, Emirates and Philippines Airlines have been examined earlier and while not in major alliances have code shares and special prorate agreements with many other airlines.

The ACCC believes it is possible that the IATA Tariff Coordination system could be acting against the interests of regional operators. IATA has acknowledged that many small and regional IATA members do not attend IATA Tariff Coordination Conferences. Air Vanuatu has submitted to the ACCC that it does not attend as a matter of policy. To accept that smaller and regional carriers benefit from Tariff Coordination system is to accept that all the attending carriers are going to act in the interests of the non-attending small and regional carriers. The ACCC does not believe that this can be assumed to be the case. Amex for example has submitted to the ACCC that most airlines are only interested in marketing themselves not interline travel. Qantas has submitted that it only attends conferences where it is of benefit to itself.

IATA comment
The ACCC contentions in this paragraph are unsubstantiated assumptions.

Air Vanuatu's letter has been misconstrued. As noted above the airline does not attend meetings of IATA Tariff Coordinating Conferences because it does not have the staff to do so but if there were anything on the agenda that adversely affected its interests it has stated that it would raise the matter with IATA.

American Express did not make a submission to the effect set out in this paragraph. Rather in what appears to be a general discussion the American Express representative is recorded as having 'mentioned' that airlines are only promoting their own fares.

While it is true that airlines would, obviously, market their own products and services first it is also true that when and where their customers demand a product that they cannot deliver alone they will provide the IATA product. The facts speak for themselves. Airlines large and small regularly sell IATA fares.

Qantas has clarified its support for the IATA application and its position in relation to attendance at meetings of IATA Tariff Coordinating Conferences in its letter to the ACCC dated 27 October 2005.

Issue 17. To what extent are any recognisable benefits for smaller airlines (and possibly consumers) dependent on factors such as: their ability to form commercial relationships with other carriers; whether Tariff Coordinating Conference outcomes are in their favour; the incidence of IATA fare purchasers travelling to destinations they service; and competing services from low cost carriers?

IATA comment
The facts support the proposition that smaller airlines do benefit from the IATA interline system and the bilateral commercial relationships they have been able to form based on that system.

The inference that the outcome of IATA Tariff Coordinating Conferences favours larger airlines is untrue. Conference outcomes are negotiated in good faith and require the unanimous agreement of participating airlines, large and small. Many small airlines have chosen to participate in IATA's multilateral interline arrangements from which it can be deduced that they benefit as a result.
Another key point overlooked in the ACCC Discussion Paper is that recognisable benefits from the IATA system for smaller airlines (and the consumers they serve) is not dependent on their ability to form commercial relationships with other airlines. That is the benefit of the IATA system.

Once an airline, large or small, enters IATA's multilateral interline arrangements that airline has the benefits of interlining and all of the other technical and facilitative benefits that the total IATA system provides. They do not need to negotiate bilateral arrangements with other airlines to secure these benefits, although they are open to do so if that suits their individual commercial interests.

**Expanded route networks**

10.194 IATA has submitted that the IATA interline system allows airlines to offer services beyond their own route networks and airlines have very substantial incentives to interline (using IATA interlineable fares) when combined services are the only way in which they can participate in origin-destination services. IATA submits that for the consumer the participation of all airlines in an interline service on a particular origin-destination route greatly expands choice and consumer welfare.

10.195 IATA has provided an example of the route between Sydney and Hong Kong which is served by daily non-stop flights by Cathay Pacific and Qantas. IATA submits that passengers can also move between Sydney and Hong Kong via Singapore, Bangkok or Kuala Lumpur (amongst others) within the mileage band allowed by an IATA interlineable fare. IATA submits that multilateral interlining therefore expands the number of competing services from two or three daily non-stop flights to multiple connecting flights over intermediate points. Qantas can secure a greater share of passengers on its Hong Kong - Sydney service by combining with other airlines.

10.196 The ACCC has already examined the claimed benefit of increased connections for consumers. The claimed benefit of expanded route networks appears to be a product of the same connectivity with the benefits directed towards airlines and competition rather than consumers.

**IATA comment**

There is no basis for the view that increased connections is not a consumer benefit. In the example given, consumer choice increases from a few direct flights to multiple interline connecting flights. This gives them a far greater choice of departure times.

10.197 In its example IATA claims that the ability of Qantas to interline passenger over intermediate points between Sydney and Hong Kong enables it to obtain a greater market share. The question of how this is a public benefit aside, the ACCC would observe that Qantas is already well positioned through its oneworld alliance relationship with Cathay not only to provide such services but to do so at fares likely to be well below IATA fares.

10.198 The ACCC also notes that the proliferation of low cost carriers in the Asian region provides increasing opportunities for visiting intermediate points on a Hong Kong itinerary. It was noted at a recent symposium on low cost carriers that:

>'For Australians, Asia's low cost airline explosion means a burgeoning network with cheap fares to an increasing number of destinations. It turns the region's major hubs into jumping offpoints for affordable travel to other destinations'.

10.199 IATA states that in the case of Hong Kong Multilateral Interlining increases the number of competing services from two or three non stop services to multiple connecting flights over intermediate points.

---

39 'Low-cost flight paths lead to Asia', The Australian, 28 January 2005.
The ACCC has strong reservations about whether interlining based on fares agreed at IATA Tariff Coordinating Conferences can ever be seen as providing a basis for increased competition.

In recent years Qantas has withdrawn services from Australia to Rome and Paris. Rather than rely on IATA Interline services based on IATA fares to service these destinations, Qantas entered into code shares on Cathay Pacific and Air France operated flights respectively. The primary issue is that IATA fares are too high to enable airlines to use them on a competitive basis.

IATA comment

IATA categorically refutes the allegation and trusts that the view that IATA fares are too high does not indicate that the ACCC has already made up its mind in relation to this issue.

This view is reinforced in a submission to the ACCC from Thai International Airways which states that:

'Thai Airways International currently operates to 11 European points, all of which are gateways to both domestic and intra-Europe destinations. It would be ideal scenario that we enjoyed an SPA facility with all carriers operating from these hubs to destinations sought after by passengers originating from Australia. Unfortunately, this is not the case and it is often necessary to use the IATA published fare to determine what we will be billed by the interlining carrier and then add this airfare component to our own on-line Australian market fares in order to position Thai Airways International as a competitive alternative to these off line European destinations, which may be served through the online operations of our competitors or other alliance partners'.

IATA comment

The quote from the letter from Thai International provides no such reinforcement. It unambiguously supports the proposition that IATA fares provide an opportunity that would otherwise not exist to expand route networks. That is the point Thai International was making and to attempt, as the ACCC Discussion Paper does, to use the statement as support for the proposition that IATA fares are too high again demonstrates the reasons for IATA's concern about the whole Discussion Paper.

It would appear to follow from the view expressed in paragraph 10.200, that if the IATA system did not exist the ACCC would prefer that Thai International did not compete at all. Thai International provided a valuable service to Australian consumers and to those who seek to come to Australia, to Australia's tourism and business benefit.

This and the following paragraph of the ACCC Discussion Paper demonstrate a complete lack of understanding of reality and of what Thai International was saying. The example given in the comment to paragraph 6.24 will assist in understanding the true position.

In other words the only way that Thai International is able to compete is by using its own net fare as the basis for fare construction rather than using the IATA agreed fare.
Issue 18. The high cost to consumers of the interlineable fares required to access the expansion routes is likely to be a barrier to the ability of an airline to compete on those routes. Under these circumstances while IATA multilateral interlining does in theory increase the networks of individual airlines can the expanded component of their networks be regarded as effectively utilised?

IATA comment

IATA rejects the proposition that IATA fares are a "high cost to consumers". They are a premium product available in the market and utilised extensively by those who need or wish to have the benefits the product delivers.

The barriers hypothesised in this question do not exist. There is simply a range of products available in Australia from which consumers can and do choose, including the IATA product.

Universality

10.204 IATA has submitted that universality arises with around 335 airlines (at the time of the IATA submission) participating through the IATA interline arrangements, providing scheduled international and domestic air services to almost every airport in the world. While other systems could conceivably emulate features of the IATA system, none have replicated it, nor is replication likely.

10.205 The ACCC acknowledges that IATA does provide an interlining system that could be described as universal in the sense that it has global wide geographic application and involves most international airlines of the world.

10.206 However there is a question as to whether universality is a public benefit in itself. The ACCC believes that it is more likely that any benefit associated with the scope for the interline system will be reflected in other public benefits claimed by IATA such as those related to offline connectivity. It stands to reason that the broader the route network and the more airlines involved in the system the greater will be the potential for off line connectivity benefits.

Issue 19. To what extent is universality a public benefit independent of other benefits claimed by IATA?

IATA comment

Universality, like all of the public benefits IATA has pointed to in its original submission on tariff coordination and interlining and each other submission IATA has made on the IATA system, is interlinked with every other public benefit.

If the system were not re-authorised this would place its universality at risk by removing IATA interlineable tickets from the range of products available to Australian consumers and removing Australia as a destination accessible on IATA interlineable tickets.

While it may assist analysis to dissect and consider every individual public benefit individually it is the totality of public benefits likely to result from the entire IATA system that is to be balanced against any likely anti-competitive effect of that system.
Efficient use of assets

10.207 IATA has submitted that IATA interlining promotes greater use of aviation assets and infrastructure. Because interlining provides feeder passengers into an airlines network, airlines achieve greater utilisation of their aircraft and infrastructure. Overall taken globally less aircraft are needed, less fuel consumed and environmental impact is reduced.

10.208 Any claim of a more efficient use of assets associated with IATA interlining would appear to be dependent on the level to which the system is utilised, i.e., the extent to which travellers use the system to reach offline destinations, and how airlines might operate absent IATA interlining.

10.209 In earlier discussion the ACCC indicated that it appeared that the level of patronage of the IATA interline system (usage as against the purchase of IATA interlineable fares) was not at significant levels.

10.210 Qantas has advised the ACCC that it would not be materially detrimented if the ACCC did not re-authorise IATA tariff coordination activities and consumers would generally not be affected adversely although some may. These hardly seem the comments of an airline reliant on the IATA interline system for feeder traffic.

10.211 The ACCC also notes that IATA states\(^{40}\) in its submission:

> 'Without Interlining it is not only the smaller airlines that are likely to reduce their route networks. The likelihood is that larger airlines, which rely on interline feeder traffic to make thinner routes viable, will reduce the scope of their networks, leaving passengers to travel on indirect routings at potentially higher cost'.

10.212 This statement would seem to suggest that in the absence of IATA interlining there would be less aircraft utilised, less fuel consumed and a reduced environmental impact.

---

IATA comment

This paragraph trivialises and misconstrues what IATA had submitted.

On any flight an airline will have a mix of point-to-point, online connecting and interline connecting passengers. The loss of interline connecting passengers will obviously affect the economics of the route and could result in fewer frequencies or cancellation of services. Not only will interline passengers lose benefit, so will the point-to-point and online connecting passengers.

---

Issue 20. Claims that the IATA interlining results in more efficient use of assets must be assessed against the likely behaviour of airlines in the counterfactual, i.e., if IATA Tariff Coordination is not authorised. Is the utilisation of IATA interlineable fares at such levels that airlines would change their routes and schedules of operation absent IATA Tariff Coordination on routes involving Australia?

---

\(^{40}\) Paragraph 18.40.
IATA comment

The short answer to this question is that the economic viability of each airline varies, but overall the international airline industry is not one which is attended by profits, let alone super profits. Only the best managed airlines recover their cost of capital. Most perform at consistently lower levels than that. Airlines make decisions about the routes on which they will operate based on a business case for doing so and maintain services where it is financially appropriate to do so. Interline traffic, including IATA interline traffic, makes a significant contribution to the economics of most airlines. Premium fare passengers, including those for whom an IATA fare is recovered, whether for an entire journey or only some sectors, are extremely important to the economics of airline routes.

The consequence of this is that, while it is possible that the loss of the IATA system, including tariff coordination, would have an immediate adverse effect sufficient to cause an airline to drop routes, this is unlikely. What is likely is that the loss of the IATA system, including tariff coordination, would have a deteriorating effect over time, contributing to some overseas airlines reassessing and possibly dropping some routes or services to Australia.

Natural cap on prices

10.213 IATA has claimed a public benefit from fares established through the IATA Tariff Coordinating Conferences providing a natural cap on competitive market fares. It is claimed that by establishing a fare for a premium product, the fully interlineable ticket, a natural cap is placed on fares generally.

10.214 IATA submits that without the discipline of having to negotiate IATA fares within the forum of an IATA Tariff Coordinating Conference, where airlines large and small negotiate from differing viewpoints and with differing economic interests, the constraint which results would disappear.

10.215 IATA has cited supporting material which shows that market fares tend to be below IATA fares. The data cited, for example, (Vol 1, Tab 11) shows that, for one way fares for travel from Sydney to London at a certain point in time, market fares ranged between A$952 and A$2,244 compared to the IATA fare of A$5,911. The equivalent IATA business class fare for travel on the same route is A$7,930 compared to a range of market business class fares of $2,713 to $7,004.

IATA comment

Simplistic comparisons of the type set out in this paragraph are of no probative value because the comparisons made overlook the fact that the fares being compared have such different features as to make any direct comparison meaningless. This is explained in the comment to paragraph 2.9 which also includes an imperfect but nevertheless justifiable comparison of fares on the Sydney-London route.

10.216 The ACCC finds it difficult to accept that IATA fares act as a cap on prices, especially for economy class fares, when the gap between IATA fares and market fares is so large. The ACCC also notes that over 70% of passengers flying to and from Australia are leisure passengers who are price sensitive and would drop out of the market well before the IATA 'natural cap' fare was ever approached.
For business passengers, who are more likely to travel on premium fares, an examination of fares undertaken by the ACCC in its competition analysis shows that IATA agreed fares, far from being a cap, appear to be used as a basis for setting fare levels.

**Issue 21.** Market fares are generally a product of supply and demand in competitive markets while IATA interlineable fares are agreed by airlines taking into account costs. Under these circumstances does the fact that market fares are invariably lower than IATA interlineable fares for the same class of ticket on the same route reflect IATA fares being a natural cap on fares or the method by which the fares are set?

### IATA comment

The answer to this question is yes.

There are a number of false assumptions evident from this question. They are:

- that market fares are all the same. This is not so. There is, in keeping with good commercial practice and good economic theory, a range of market fares for each route and class of service;

- that market fares are available to and from every place. That is not so. Market fares fall into two categories - net fares and airline filed fares - but neither type of fare is available for all international destinations;

- that market fares are 'invariably lower than IATA interlineable fares'. While this is generally (and understandably) so given that market fares are more restricted than IATA fares and do not offer the same range of benefits, it is by no means always the case as this submission demonstrates; and

- even where there may be a cheaper market fare for a journey IATA fares play a role in facilitating the market fare, directly or indirectly, on one or more sectors of the journey when the marketing airlines needs access to another airline's flights.

### Benefits claimed by other parties

**Airlines - base for SPAS and fare structures**

A number of airlines have submitted to the ACCC that fares agreed at IATA Tariff Coordination Conferences provide a basis for fare frameworks within their own airlines and provide reference fares for use in special prorate agreements.

### IATA comment

IATA has commented in detail on the inaccuracies in the way in which the ACCC Discussion Paper has dealt with letters from the airlines and third parties and records of meetings. These comments are set out at paragraphs 6.4 to 6.30 above.

The comments are equally applicable to the summaries set out in paragraphs 10.219 to 10.230. Factual material on the incidence of IATA interlineable tickets including comments by a number of airlines is set out in Section 8 of this submission. IATA does not contest the proposition that codesharing and SPAs operate in the market but for the reasons set out above that is essentially irrelevant because neither arrangement is an adequate substitute for IATA multilateral interlining.

Air Vanuatu stated that 92% of its feeder traffic is covered by special prorate agreements or other commercial arrangements which rely in part on the IATA system for their operations.
10.220 Cathay Pacific submitted that many of its commercial arrangements and even many aspects of its alliance arrangements are underpinned by facilities, procedures and standards developed and maintained by the IATA system.

10.221 KLM submitted that although KLM tickets issued for interlined journeys using code share arrangements and special prorate agreements are not issued at IATA fares, they nevertheless rely on the IATA interlining system. The processes behind the coordination of the transfer of passengers and their baggage between KLM and other carriers are those established by the IATA system, and settlement is made through the IATA Clearing House. In addition many special prorate agreements are based on a straight prorate of an agreed fare. This means that the IATA pro-ration rules are applied except that any provisos are ignored. It should also be noted that carriers can and do issue IATA interline tickets where the passenger is not charged the IATA fare. This is a commercial decision for the ticketing carrier as the interlining carrier still receives its prorate share based on the IATA fare.

10.222 Lufthansa stated that it has a variety of code share agreements and some special prorate agreements with identified airlines. Many of those arrangements rely on the IATA system for their operations.

10.223 Malaysia Airlines stated that many of its code share agreements and special prorate arrangements rely on the IATA Multilateral Prorate Agreement and IATA Tariff Coordination.

10.224 Philippine Airlines submitted that many code sharing, alliances and special prorate arrangements rely on IATA Tariff Coordination.

10.225 Qantas stated that while IATA fares are not commonly applied they are benchmark fares from which Qantas discounts.

10.226 South African Airways submitted that many special prorate agreements are in fact underpinned by the IATA fares and prorates.

10.227 Thai Airways International stated that it should be recognised that special prorate agreements are not always fixed amounts but can be based on a percentage discount from the standard prorated billing derived in accordance with the IATA Prorate Manual - Passenger.

10.228 According to Thai Airways the validity of most special prorate agreements are usually set for one year and generally require renegotiation at termination. There is no guarantee of continuity. How then does a carrier maintain a presence of marketing to a destination if the special prorate agreement on which its pricing was originally established is no longer valid? The IATA Prorate system is available to use as an alternative in such an instance to maintain marketing of that destination.

10.229 Thai Airways comments that whilst it is ideal that code share agreements are based on established special prorate agreements, there are instances where the interline billing from the operating carrier for seats utilised by the marketing carrier is based on the IATA Prorate system. Unless a harmonised fare structure is established between the carriers, then the ticketed fare would be used as the basis of the through fare for prorating purposes. Thai Airways International currently does have code share agreements not covered by either special prorate agreements or harmonised fares.

10.230 United Airlines indicated that IATA fares are used as indicator fares. They provide a benchmark and starting point to set fare prices that will actually be paid by customers.
It appears to the ACCC that many aspects of IATA systems assist airlines in their day to day operations and even in their commercial relationships with other airlines. The IATA Clearing House, for example, plays a useful role in distributing funds between alliance members. Similarly the IATA Prorate system can provide objective criteria for dividing funds received by airlines in alliances for jointly providing off line services.

IATA comment

This and the following paragraphs are a further example of the way in which the ACCC Discussion Paper trivialises major benefits of the IATA system.

The fact is that, every day, airlines use fares agreed in IATA Tariff Coordinating Conferences for interlining purposes and to construct fares for sector journeys they do not themselves operate, either utilising the MITA only or utilising it in conjunction with a bilateral agreement (eg SPA), to the benefit of the travelling public.

While the use of IATA agreed fares may prove convenient for airlines in providing benchmarks for the setting of airlines own fares and for use in special prorate agreements it is not clear that the use of the IATA agreed fares for these purposes is necessarily in the interest of the public.

There is a danger that when airlines use an IATA fare as a step in their integrated fare structures as part of yield management systems that, depending on demand for particular flights, travellers could be pushed towards the IATA increment in the fare scale.

IATA comment

This is a hypothetical scenario not supported by any evidence. Even if it did occur there is no basis for concluding that it is not the natural outcome of a competitive market: see Section 5 paragraphs 2.1-2.20 of this submission.

It also is not clear how airlines might otherwise use IATA fares for benchmarking their own market fares. If, for example, the fares marketed by airlines were derived as a proportion or discount of the IATA fare then it is difficult to see how a fare structure based on fares agreed between competing airlines, especially on point to point routes, could be in the public interest.

Similarly while components of IATA agreed fares could be used by some airlines, such as Thai Airways International, as basis for fare construction to offer offline travel at rates lower than when using IATA interline fares, there do not appear to be any good reasons why airlines could not construct fares using the market sector fares of other airlines.

IATA comment

This paragraph significantly understates the extent to which IATA fares are used as a basis for fare construction. IATA refers in this respect to Section 8 of this submission and the IATA comments at paragraphs 6.9, 6.14, 6.15, 6.17, 6.20, 6.23 and 6.24 above.

The reason why airlines do not construct fares using the market sector fares of other airlines is that this results in a higher, and uncompetitive, total fare to the consumer. If the constructed fare was indeed competitive the airlines would be doing this today.
Issue 22. How could the use by airlines of fares agreed in IATA Tariff Coordinating Conferences for the purposes of setting benchmarks for market fares or of providing a basis for fares used in bilateral agreements be regarded as being in the public interest?

IATA comment

Fares established at IATA Tariff Coordinating Conferences do not set benchmarks for market fares as stated in this question.

Otherwise, the answer to this question is that IATA fares are in the public interest for all of the reasons set out in the IATA submissions lodged to explain the various elements of the system for which re-authorisation is sought, including the IATA Tariff Coordinating Conferences and Interlining submission dated 24 May 2004, in the many third party submissions that support IATA's application and in this response.

Tourism bodies

10.236 While IATA has made no claims of tourism benefits, submissions received by the ACCC from a number of other parties suggested that tourism to Australia could be adversely affected in the event IATA's Tariff Coordination activities were not authorised.

10.237 The Department of Industry, Tourism and Resources considered that the removal of interlining and passenger and tariff coordination could have a negative impact on the Australian tourism industry as the IATA system enables airlines to work together to provide travellers with greater flexibility in terms of flight options and ticket conditions that would not otherwise be available.

10.238 The NSW Department of Tourism, Sport and Recreation supported IATA's application based on consideration of the consumer and broader tourism industry benefits. In particular the Department understood the consumer and industry benefits associated with passenger tariff coordination arrangements to include:

- lower fare rates
- flexibility for time sensitive
- an opportunity for airlines to compete and reduce costs by allowing access to wider networks
- a system which services most ports/destinations worldwide.

10.239 TTF Australia, which represents parties with an interest in tourism, including many substantial international airlines, submitted that tariff coordination is important to Australia's aviation industry which plays a critical role in both Australia's tourism industry and the wider economy.

10.240 TTF expressed confidence that Tariff Coordination supplied the benefits claimed by IATA and noted that although there is no specific measure of the incidence of either IATA interlining in tickets sold within Australia or for inbound tickets to Australia, IATA has drawn the conclusion from available arrivals and airline data that the incidence of IATA interlining by inbound travellers to Australia is 'significant'.

10.241 It was TTF's view that a decision by the Commission not to grant re-authorisation for IATA's Tariff System would result in a decline in inbound tourism, as it would become increasingly difficult for feeder traffic from markets not currently serviced by flights into Australia to travel into the country.
Discussion

10.242 The ACCC has seen no evidence to suggest that IATA Tariff Coordination and the interline system which it supports provide any benefit of significance to Australian tourism. Effective use of the interline system based on IATA agreed fares appears very low and a common theme presented to the ACCC by travel agents, Qantas and even IATA itself is that the IATA interline system is used mainly by business travellers.

IATA comment

Paragraphs 10.236 to 10.241 summarise parts of the detailed submissions made by government departments and other agencies with direct responsibility for tourism policy and development. All of those bodies provided information from which the only possible conclusion is that the IATA interline system provides significant benefits to Australian tourism.

IATA finds it difficult to comprehend how, in the light of that material, it could be said that the ACCC has seen no evidence of this fact.

10.243 IATA agreed fares are simply too expensive for price sensitive leisure travellers to use. Indeed it could be argued that action taken by airlines at IATA Tariff Coordinating Conferences in consistently and relentlessly increasing IATA fares has been detrimental to tourism through taking interlining based on IATA fares out of the reach of the predominance of leisure travellers.

IATA comment

IATA rejects the proposition that IATA fares are too expensive even for 'price sensitive leisure travellers'. The ACCC Discussion Paper appears to have completely disregarded the many IATA special fares and the fact that leisure travellers have a variety of needs and requirements, not always met by a simple point-to-point journey on a thick route.

IATA also rejects the assertion that IATA fares are 'constantly and relentlessly increasing': see Section 7 of this submission at paragraphs 8 and 9.

Finally for the reasons set out above IATA also rejects the assertion that IATA fares have been detrimental to tourism or out of the reach of the 'predominance (sic) of leisure travellers'. This statement is unjustified. It ignores the role of the many IATA special fares.

10.244 An examination of fares agreed by airlines at IATA Tariff Coordination conferences over an extended period shows that fares have risen steadily regardless of the status of the market involved. The increases are not unexpected given that IATA fares are cost driven rather than demand driven. The inexorable increase in fares is even noted by IATA in its Tariff Services Handbook:

'It should be appreciated that whatever happens to yields generally, the IATA tariff consultation usually leads to some increases in interline tariffs. In recent years such increases have been very modest, generally in the range of 2% to 5%'.

IATA comment

The assertion that IATA fares have risen 'regardless of the status of the market' is unjustified. It is no doubt based on the inaccurate data used in the ACCC Discussion Paper's longitudinal study and pays no regard to changes in service levels or market conditions: see Section 7 of this submission at paragraph 5.
For example over the period 1995 to 2001, return economy fares from Sydney to London offered by Qantas fell by 14% (from $2,580 to $2,255) while the IATA excursion economy fare increased by 19% (from $2899 to $3469). More importantly the gap between the market fare and the IATA fare increased as a percentage of the market fare from 12% to 53%.

With IATA interlining becoming out of reach of leisure travellers the major initiatives being taken to meet the needs of leisure travellers for offline travel are coming from airline alliances. For example the oneworld alliance announced on 11 March 2005 that it was the first of the global airline alliances to complete the roll-out of interline e-ticketing between all its members. This means that customers can travel with just one electronic ticket throughout the combined network of the alliance members who fly to 603 destinations in 136 countries worldwide. The Managing Partner of oneworld was quoted as saying:

'oneworld was created to make travel to more places more easy for more people'.

IATA comment

For all of the reasons set out above IATA rejects the statement that IATA interlining is becoming 'out of reach of leisure travellers'.

Issue 23. The levels of fares agreed at IATA Tariff Coordinating Conferences are such that they appear to be only rarely used by leisure travellers who are generally price sensitive. Under these circumstances, could any benefit of substance to Australian tourism from IATA Tariff Coordination be recognised? Is it possible that IATA Tariff Coordination is actually detrimental to tourism?

IATA comment

The short answer to this question is that it is based on the false assumption, unsupported by fact, that IATA fares are 'only rarely used by leisure travellers' and the equally incorrect assumption that Australian tourism does not benefit even if, as is asserted, relatively few 'leisure travellers' utilise IATA fares. These assertions are contrary to the opinion of the tourism experts who support the IATA application - opinions that appear to have been largely dismissed by the ACCC Discussion Paper without due consideration.

11. CONDITIONAL AUTHOURISATION

11.1 In circumstances where the ACCC is concerned that there may be some uncertainty whether the public benefit outweighs the anti-competitive detriment, the ACCC may consider whether it is possible to grant authorisation subject to conditions aimed at reducing, as far as possible, that uncertainty.

11.2 Section 91(3) of the Act states that an authorisation may be expressed to be subject to such conditions as are specified in the authorisation.

IATA's views on conditions

11.3 IATA has submitted that the European Commission has considered a number of conditions for immunity of Passenger Tariff Coordination for operations within the European Community

---

41 'Oneworld is first alliance to enable passengers to fly across its entire network with only electronic ticketing', oneworld news release, 11 March 2005.
but after representations from IATA none were imposed. The conditions IATA claims were considered by the EC were:

- IATA fares should only be used for calculating compensation between airlines;
- IATA fares be removed from tickets and CRSs because they might be used as a signalling mechanism;
- grant exemption only for consultations on business and full economy fares in order to prevent airlines from using Tariff Coordination as a signalling mechanism for airlines special and discount fares;
- obliges airlines to offer airline specific business fares on all routes; and
- exclude airlines that are part of an alliance from participating in the IATA Tariff Coordinating Conferences for routes on which the alliances operate, forcing them to enter bilateral interline agreement with new entrants.

**Condition options**

11.4 Where the ACCC contemplates the usage of conditions in an authorisation it is normally with the intention of either reducing or minimising anti-competitive detriment or securing public benefits.

11.5 In the case of IATA's Tariff Coordination activities preliminary analysis undertaken by the ACCC tends to suggest that any usage of conditions is likely to be directed towards the constraining of possible anti-competitive detriment associated with the conduct. This would not prevent parallel consideration being given in the formulation of conditions to the preservation of identified public benefits where possible.

11.6 There would appear to be two options for conditions of this type in relation to IATA Tariff Coordination. The first option involves trying to selectively excise from the conduct the core of the anti-competitive detriment associated with particular markets or routes while trying to preserve any benefits associated with IATA fare based interlining where there are no other offline travel options available to travellers. The other option involves removing the possibility of anti-competitive detriment by effectively seeking cessation of all elements of the conduct relevant to markets involving Australia.

11.7 It would be assumed that both options would include a clause which resulted in Australia being able to meet any international obligations arising from bilateral air services agreements. Consistent with paragraph 10.48 this would mean that IATA Tariff Coordination would continue to be allowed to apply to inbound and outbound traffic on the Australia-Japan route and inbound traffic on the Australia-Thailand route whenever such activities were required by the air service agreements between Australia and those countries.

**Option 1- selective excision of detriment**

11.8 The primary objective of such a condition would be to remove the process of airlines agreeing fares at IATA Tariff Coordinating Conferences in relation to routes where interlining based on IATA agreed fares is generally not required.

11.9 The removal of this process might not only reduce opportunities for exchange between competitors on those routes but also remove the possible influence of IATA agreed fares and attached conditions on market fares on those routes.

11.10 There are two approaches which might be used in such a condition, one being airline based and one being route based.
11.11 The airline approach might see nominated airlines operating on routes to and from Australia denied the ability to participate in IATA Tariff Coordinating Conferences. The ACCC does not believe that such an approach would work. As airlines leave and enter routes such an approach has monitoring and regulation implications. The approach would also be ineffective as under the IATA conference voting rules airlines not operating on routes are still allowed to vote on fares on those routes.

11.12 The route approach would aim to make a differentiation between routes on which there was little need for IATA interlining based on agreed fares and routes where there were limited off line travel options available.

11.13 Ultimately the selection of routes on which IATA Tariff Coordination could be denied would be reliant on the development of criteria which took into account factors such as the number of airlines on a route and the frequencies of their flights and whether interline travel across members of an alliance or via a code share or prorate agreement was possible.

11.14 Ideally a route based condition should be self administered by airlines using criteria developed by the ACCC rather than reliant on the ACCC advising day by day the particular routes subject to the conditions. The ACCC could hardly be expected to continually monitor all the aspects of operation of all airlines visiting Australia or airlines overseas to which they were connecting. The onus would need to be on airlines to comply with the condition. A failure to comply, for example by participating in IATA Tariff Coordination in respect of a route which met the ACCC’s exclusionary criteria, could see an airline at risk of breaching the Act.

11.15 While further work needs to be undertaken on developing possible specific criteria it is possible that criteria along the following lines could emerge:

IATA member airlines shall not meet at IATA Tariff Coordinating Conferences for the purpose of agreeing fares on routes between points in Australia and points overseas where those routes are served by at least daily flights either by airlines operating directly in their own right or by two or more airlines jointly proving services through an alliance, code share or special prorate agreement.

11.16 A consequence of the route approach is that point to point routes and routes involving multiple airlines and frequencies will invariably be excluded from IATA Tariff Coordination Conferences. This would include routes such as from Sydney to London, Singapore, Los Angeles, Hong Kong and Tokyo. The routes likely to be excluded also form the basis for the construction of fares to many offline destinations.

11.17 Ultimately therefore if IATA interline travel is to continue to be made available to many destinations there could need to be a reconsideration of fare construction including the possibility of base fares other than IATA agreed city pair fares being used.

**Option 2 - removal of detriment**

11.18 A starting point for the removal of detriment would be not granting authorisation for the agreement of fares at IATA Tariff Coordinating Conferences for travel between Australia and points overseas.

11.19 Such a condition would clearly see airlines notable to agree fares at IATA Tariff Coordinating Conferences for city pairs where one of those cities was located in Australia.

11.20 There remains the matter of how such a condition should respond to add on fares agreed at IATA Tariff Coordinating Conferences and whether in the absence of agreed city pair fares add on fares give rise to any detriment in their own right. Given add on fares are only used in fare construction based on city pair fares, they should in theory have no role to play in markets involving Australia in the absence of IATA city pair fares.
11.21 However there is a possibility that add on fares could be added to international market fares to create interline fares beyond gateways. Emirates for example does not fly to Tasmania but could market a fare from Dubai to Hobart based on a Dubai to Melbourne market fare plus the IATA add on fare for travel to Hobart. The value of such add on fares needs to be considered against the fact that Qantas is the only IATA interline carrier in Australia and many destinations in Australia are now not accessible except by low cost non-interlining carriers.

Issue 24. Is it possible to impose conditions which would permit IATA interlining to be available to offline destinations while at the same time removing detriment associated with the agreement of IATA fares for destinations reachable online either via direct services or through commercial arrangements between airlines of one form or another?

IATA comment

The short answer to this question is that anything is theoretically possible if cost is not an issue, but there is a significant difference between theory and reality. The reality is that the current system is the one which works. This does not mean that the industry will not innovate over time and that alternatives may not emerge, but there is presently no practical alternative to IATA tariff coordination.

IATA also points out that the role of the ACCC is to assess the application as is - not to seek to fashion some other system through conditions. Conditions may only be permissibly used if they are needed to redress any imbalance between likely anti-competitive effects and public benefits. IATA submits that the balance in favour of authorisation in this case is clear and no such conditions are appropriate or warranted.
SECTION 4

IATA'S RESPONSE TO THE ACCC'S DISCUSSION OF MARKET DEFINITION ISSUES

(DISCUSSION PAPER, PARAGRAPH 7)
SECTION 4

IATA'S RESPONSE TO THE ACCC'S DISCUSSION OF MARKET DEFINITION ISSUES

(DISCUSSION PAPER, PARAGRAPH 7)

1. ACCC Discussion Paper

1.1 The ACCC Discussion Paper correctly states that the effect of any particular arrangement on competition is not assessed in a vacuum. It is to be assessed in the context of relevant markets.

1.2 However, the ACCC Discussion Paper falls into error in selecting the market thought to be relevant to assessment of IATA tariff coordination and interlining. As a consequence of this fatal flaw the ACCC Discussion Paper makes assumptions and asserts outcomes in relation to the possible effects of IATA tariff coordination and interlining which are, in IATA's submission, unsupportable.

1.3 This section of IATA's response explains why that is so and puts forward what IATA submits is the correct approach to market definition for the purposes of analysis of the effect on competition of IATA tariff coordination and interlining and the factual basis for doing so.

2. Legal framework for market definition

Purpose of identifying relevant markets

2.1 In determining authorisation applications the ACCC is required to assess 'any detriment to the public constituted by any lessening of competition that would result, or be likely to result' \(^1\) and balance that detriment, if any, against the public benefits likely to result from the proposed contract, arrangement or understanding.

2.2 Likely effects on competition are not determined in a vacuum. They are determined by reference to markets. Delineation of relevant markets serves to focus the analysis of competitive effects.\(^2\) Market identification is therefore an important first step in considering whether conduct\(^3\) is, or is not, likely to have an effect on competition.

2.3 Consequently, it is necessary to approach the question of market identification, not as an objective on its own, but rather, as a step towards the ultimate consideration: the effect on competition of the conduct under consideration.

---

\(^1\) Trade Practices Act 1974, section 88(6). Applicable to conduct to be tested against a competitive effects test only. The test for section 45(2)(a)(i) and 45(2)(b)(i) is whether, in all the circumstances, the public benefits are such that the subject matter of the application should be authorised.

\(^2\) See ACCC Merger Guidelines paragraph 5.34.

\(^3\) The relevant test applies to provisions of contracts, arrangements and understandings but for the purposes of this paper they are collectively referred to as 'conduct'.
Any analysis of potential relevant markets must commence with consideration of the legal framework within which that analysis is to be undertaken. The starting point is therefore the decision of the Tribunal in QCMA\(^4\). The essential question is: what definition of markets will best assist in analysing the processes of competition relevant to the IATA Tariff Coordination and Interlining?\(^5\)

**Market - the term defined**

2.5 Section 4E of the Trade Practices Act 1974 sets out the following definition of the term 'market':

> 'market' means a market in Australia and, when used in relation to any goods or services, includes a market for those goods or services and other goods or services that are substitutable for, or otherwise competitive with, the first-mentioned goods or services.

2.6 As the Trade Practices Tribunal noted in QCMA, the term 'market' is to be interpreted in an economic sense. The classic exposition is, of course, the following, recently applied by the Tribunal in Qantas\(^6\):

> "A market is the area of close competition between firms or, putting it a little differently, the field of rivalry between them ... Within the bounds of a market there is substitution – substitution between one product and another, and between one source of supply and another, in response to changing prices. So a market is the field of actual and potential transactions between buyers and sellers amongst whom there can be strong substitution, at least in the long run, if given a sufficient price incentive. Let us suppose that the price of one supplier goes up. Then on the demand side buyers may switch their patronage from this firm's product to another, or from this geographic source of supply to another. As well, on the supply side, sellers can adjust their production plans, substituting one product for another in their output mix, or substituting one geographic source of supply for another. Whether such substitution is feasible or likely depends ultimately on customer attitudes, technology, distance, and cost and price incentives.

> It is the possibilities of such substitution which set the limits upon a firm's ability to 'give less and charge more'. Accordingly, in determining the outer boundaries of the market we ask a quite simple but fundamental question: If the firm were 'to give less and charge more' would there be, to put the matter colloquially, much of a reaction? And if so, from whom? In the language of economics the question is this: From which products and which activities could we expect a relatively high demand or supply response to price change, ie, a relatively high cross-elasticity of demand or cross-elasticity of supply?".\(^7\)

2.7 Put another way, a market is, as the Tribunal has noted, 'the smallest area of product, functional and geographic space within which firms could collectively possess

---

\(^4\) Re Queensland Co-operative Milling Association Ltd; Re Defiance Holdings Ltd


\(^6\) Re Qantas Airways Ltd [2004] AcompT 9 at paragraph 230.

\(^7\) Re QCMA (1976) 25 FLR 169 at page 190.
substantial market power; that is, the power to raise price above their opportunity costs by restricting output, or otherwise to act in a manner unconstrained by competitors ... for a sustained period of time.  

2.8 Delineation of market boundaries requires consideration of both the supply side as well as the demand side. For current purposes this means that market boundaries are to be determined by considering the position from the airline perspective; not just from the perspective of those who travel on them, although each is important.

2.9 In Australian competition law the concept of a market has both a descriptive and a purposive role, describing a range of economic activities by reference to particular economic functions, the classes of products which are the subject of those activities and the geographic area within which those activities occur. The term is not susceptible to precise comprehensive definition. The outer limits of a market in any particular case will inevitably be blurred.

2.10 In undertaking the analysis necessary to determine the boundaries of a market in any given case the object is to discover the degree to which competition is likely to be affected by the conduct. Therefore, the question to be addressed is: what definition of market will best assist in analysing the processes of competition relevant to the IATA Tariff Coordination and Interlining? Too narrow a description of the market will create the appearance of a greater effect on competition than in fact exists.

Identifying markets - the evaluative process

2.11 Although the concept of a market has been described as 'basically a very simple idea', identifying relevant markets in any given case is not. It involves careful identification of complex relevant facts and an assessment of likely business behaviour given those facts. No meaningful assessment can be made without significant factual analysis.

2.12 Market definition is not some abstract notion to be drawn from prior ACCC decisions. Each case is different. Identification of relevant markets in any given case is a matter of applying legal principle to the facts of the case.

---

8 Re Qantas Airways Ltd [2004] AcompT 9 at paragraph 232.
12 Queensland Wire Industries Pty Ltd v BHP (1988-9) 167 CLR 177 per Dawson J at page 196.
14 “Defining the market and evaluating the [effect on competition] in that market are part of the same process, and it is for the sake of simplicity of analysis that the two are separated. … After identifying the appropriate product level, it is necessary to describe accurately the parameters of the market in which the defendant's product competes: too narrow a description of the market will create the appearance of more market power than in fact exists; too broad a description will create the appearance of less market power than there is … The process of defining the market by substitution involves both including products which compete with the defendant's and excluding those which because of differentiating characteristics do not compete.” Queensland Wire Industries Pty Ltd v Broken Hill Pty Co Ltd (1989) 167 CLR 177 at page 187.
2.13 Essentially, the task of identifying the market or markets relevant to IATA Tariff Coordination and Interlining involves drawing the boundaries between groups of buyers and groups of sellers, utilising a number of evaluative tools developed for this purpose by the economics discipline.

2.14 Those evaluative tools involve, as the ACCC Discussion Paper notes, ascertaining the relevant products (goods or services), geographic scope and functional dimension for the analysis to be undertaken. The impact of time on the analysis is also an important consideration.

2.15 This analysis can range from relatively straightforward to quite complex in many domestic markets for goods, but in highly sophisticated and complex markets, such as international aviation, the exercise is inevitably extremely complex. Initial presumptions about the relevant market or markets rarely prove accurate.

2.16 This complexity is compounded by the tendency to confuse sub-markets and markets. As the name implies, sub-markets are more narrow than markets, encompassing closer and more immediate substitutes than markets, registering typically a degree of discontinuity in substitution possibilities, but not sufficiently to warrant placing the relevant products in separate markets. Sub-markets have no place in Australian competition analysis other than as a tool of analysis, but they do serve to reinforce the point that there will normally be a level of discontinuity within markets.

2.17 It is also important to note that not all competitors will contest the entire market. Some will concentrate on geographic areas or specific products within the market.

2.18 Ultimately, the identification of relevant markets is a value judgment to be made in the context of seeking to answer the real question - what is the likely effect of IATA Tariff Coordination and Interlining on competition? The two issues are part of the same process and cannot be entirely separated. As the High Court has noted:

---

16 Paragraph 7.2.

17 For instance, in ACCC v Boral Ltd (1999) 156 ALR 410; (2001) 106 FCR 328; (2003) 195 ALR 609 the Federal Court at first instance decided that the relevant market was the market for materials used in the construction of walls and paving, whereas the Full Court and the High Court took the view that the relevant market, on the same facts, was the wholesale market for concrete masonry products, thereby excluding bricks and clay pavers. Even relatively straightforward cases can involve difficulties in identifying the relevant product market. In Morwood v Chemdata Pty Ltd (1998) ATPR 41-629 the court had to decide what the relevant product market was in a case involving allegations of misuse of market power in relation to computer software used by chemists for dispensing purposes. The court rejected a claim that the relevant market was a market for dispensary software or a prescription data market and decided that the relevant product market was the market for business data software.

18 For instance, in Re Tooth & Co Ltd (1979) 39 FLR 1, the Trade Practices Tribunal was required to decide whether the relevant product market was the market for bulk beer, beer or all alcoholic beverages. The court thought bulk beer to be a sub-market, deciding that beer constituted the relevant product market in that case.


20 See, for example, the facts in Trade Practices Commission v Ansett Transport Industries (Operations) Pty Ltd (1978) 32 FLR 305.

21 See footnote 7 of section 4.

22 Queensland Wire Industries Pty Ltd v Broken Hill Pty Co Ltd (1989) 167 CLR 177 at 187
'In identifying the relevant market ... it must be borne in mind that the object is to discover the degree of the defendant's market power. Defining the market and evaluating the degree of power in that market are part of the same process, and it is for the sake of simplicity of analysis that the two are separated.'

2.19 For the purposes of analysis it is convenient to consider how competition manifests itself in what might constitute relevant markets, by reference to the products supplied by those thought to compete in the market, how they compete and the geographic areas in which that competition occurs or is likely, over time, to occur, having regard to any relevant barriers to entry.

**Products (goods or services)**

2.20 Section 4E of the *Trade Practices Act 1974*, quoted above, requires markets to include, in addition to the products (goods or services) of the party under consideration, products that are 'substitutable for, or otherwise competitive with' those products.

2.21 If products are not reasonably interchangeable - do not compete because they have differentiating characteristics - then they will not be in the same market. Conversely, if products (goods or services) have similar characteristics and are reasonably interchangeable then, subject to a functional analysis and geographic considerations, they will be regarded as being in the same market.23

2.22 This point is well illustrated by the decision of the full Federal Court in *Singapore Airlines*24, the leading Australian authority on market definition in the aviation industry. That case related to a claim that the airline had breached section 46 when it cancelled its arrangements with a tour operator for package tours from Australia to the Maldives. The court rejected the proposition that the relevant market was a market for package tours to the Maldives only. The court said:

*The primary product class of concern in this case consists of airline services from Australia to destinations off shore. It extends to the provision of such services to other countries and to islands forming part of Australia. The secondary product class of interest relates to packaged holiday tours from Australia to other countries or to Islands forming part of Australia. Other holiday travel within Australia no doubt forms part of the "infinite range" of possible substitutes for the products at the centre of this case, but there is nothing to suggest, and it was not contended, that it would form part of any relevant product market.*25

2.23 In other words, the court rejected the proposition that the relevant product was package holidays to the Maldives, stating that:

*The critical question for this case is how the product market is to be defined. There is nothing to gainsay the commonsense proposition that consumers choosing overseas holiday destinations may consider various possibilities including, as alternatives, different island or continental destinations or a combination of island and continental holidays. Within that group it can be accepted that some will wish to*

---

23 See footnote 7 of section 4. See also *United States v E.I. du Pont de Nemours & Co* 351 US 377,404.

24 *Singapore Airlines Ltd v Taprobane Tours WA Pty Ltd* (1991) 33 FCR 158.

25 Above para 50.
choose island holidays and may choose from different island destinations. But given
the complexity of the possible combinations of choices and the varieties of
circumstances of potential purchasers, it is difficult and, if not necessary, probably
inappropriate to essay a precise market definition. 26

2.24 This application involves, from the supply side, air transport services. Although the
ACCC Discussion Paper makes much of the distinction between full service airlines and
'low cost' airlines, the distinction is not relevant to product identification. Airlines
utilise different operating models to provide the product. Some utilise the so called 'low
cost' model and others the 'full service' model. Some utilise a combination of both.
In other words, airlines compete in different ways within the market. In competing in that
market airlines also utilise a variety of aircraft types and configurations suited to
passenger demand and technical operating requirements, but the type of equipment
operated does not define, or constrain the scope of, the product market.

2.25 On the demand side, the relevant product is also air transport services. This is the
product passengers and shippers alike utilise.

2.26 The ACCC Discussion Paper draws a distinction between what are referred to as 'leisure
passengers' and 'business passengers', putting forward the unsubstantiated theory that,
for journeys over 4,000 kilometres, they constitute different markets.27 This is a false
dichotomy.

2.27 IATA submits that passengers cannot be categorised as being in different markets. The
fact is that they are all consumers seeking to travel by air from one place to another.
They all make choices about how to get there based on a range of considerations
including brand perception, departure time, arrival time, price, stopover opportunities,
transfer requirements, comfort and safety, seat availability, travel time, etc. Once they
have made their choice they all travel on the one plane. The select from a fare, with its
fare condition, and a class of travel that suits their specific needs for the particular
journey. Many so called 'leisure passengers' travel in first and business and many so
called 'business travellers' travel in economy.

2.28 It may be relevantly observed that, while airlines direct their marketing to different
segments of the market and there are some 'economy class' only airlines, particularly
where the primary demand for the particular destination is for travel on holiday, there
are no 'business only' airlines or, for that matter, airlines that limit their passengers to
those who are only travelling for leisure purposes.

26 Above, para 53.
27 The 4,000 kilometre issue is dealt with at Section 4 Paragraph 4 below.
Functional considerations

2.29 Products may be sufficiently similar to be evaluated for inclusion in the same market, yet serve a sufficiently different function to be excluded. This involves factual analysis of the way in which the relevant industry is organised. It involves identification of the vertical stages of production and/or distribution.

2.30 This point is also well illustrated by the decision of the full Federal Court in *Singapore Airlines*\(^{30}\). The court said:

> At the functional level it would be possible to limit the market to the supply of services by airlines to wholesalers. Such a limitation, however, seems unduly restrictive. The integration of wholesale and retail activities within Singapore Airlines and other agencies suggests that the appropriate functional level comprehends the supply of airline services to wholesalers, packaged tours by wholesalers to retailers and packaged tours by retailers to consumers.\(^{31}\)

2.31 This illustrates that, in approaching the functional question, it would be a mistake to take too narrow a view. However, in this case functional considerations would not appear to impact on the issue. Functional considerations support consideration of the market from the product viewpoint. That is, the relevant market for both airlines and passengers (supply side and demand side) is air transport services.

2.32 There are however, suggestions in the ACCC Discussion Paper that there may be a functional difference based on price and class of service. If that is a view the ACCC may take that would, in IATA's submission, be a false difference.

2.33 Airlines make available to passengers a range of different service and pricing options on each flight. Traditionally airlines are configured in up to three classes - first, business and economy - but different airlines offer different service levels in each class. For instance:

- in first class - some airlines provide beds and others do not. Some offer multi-channel video and others only limited video services. Some offer additional benefits such as chauffeur driven cars to and from airports and others do not;

- in business class - some airlines offer beds and others do not. Some beds are flat and others flat and horizontal. Some offer multi-channel video and others only limited video services; and

- in economy class - some airlines offer an 'economy plus' service, including special check in, slightly more leg room, larger seat pitch, special meals and the amount of carry on and hold luggage. Some offer multi-channel video and on board phones and others do not.

---

28  Automobile manufacturers and dealers provide a simple example. Both sell vehicles, but they do so at different functional levels - one as a manufacturer selling at the wholesale level to dealers and the other as dealer selling at the retail level to customers.

29  See, for example, ACCC Merger Guidelines paragraph 5.64.

30  *Singapore Airlines Ltd v Taprobane Tours WA Pty Ltd* (1991) 33 FCR 158.

31  Above para 52.
Factual example 1

Pricing options vary by airline but many airlines offer a minimum of two prices in first class, three prices in business class and up to 26 in economy class for each city pair the airline sells. On an aircraft on any route the price for each seat will depend, among other things, on the origin and destination of the passenger.

For example, different prices will apply on a flight between Melbourne and Singapore depending on whether passengers have Singapore as their destination but originated, for instance, in Melbourne, Adelaide, Sydney, Christchurch, Wellington or Buenos Aires.

Different prices will apply depending on whether a passenger originating in Melbourne is bound, for instance, for Singapore, Hong Kong, Mumbai, Istanbul, Karachi, London or Amsterdam. In each case, for each origin/destination combination, there is likely to be two or three different price offerings in first and business class and up to 26 price offerings in economy class.

2.34 Neither price nor service level provides a basis, functionally, for determining the boundaries of relevant markets. From a functional perspective the market is a market for the international air transport of passengers and cargo. Different pricing and service options are manifestations of two of the means by which airlines compete in that market.

2.35 On the demand side, passengers may respond to the differing pricing and service offerings which airlines use to compete, but functionally they require international transportation by air.

2.36 From a functional perspective charter and 'low cost' airlines are not distinguishable from 'full service' airlines. Their service and pricing offer may differ, but functionally they still supply international air transportation of passengers and cargo.32

Geographic considerations

2.37 In considering the geographic boundaries of a market, the authorities make it clear that it is necessary to take account of the commercial realities of the industry under consideration and identify geographic boundaries that include an economically significant area of relevant trade, taking into account actual trade patterns.33

2.38 As with the other evaluative tools, this involves analysis of relevant facts. Each case will be different. In considering those facts the authorities make it clear that it needs to be borne in mind that competition within markets is not homogeneous. Within any given market different competitors will compete in different ways - some across the geographic spectrum of the market and some in more limited geographic areas.34 Too

---

32 Laker Airways is an early example. In September 1977, Laker Airways launched Skytrain which is reputed to be the first no-frills round-trip transatlantic service between London and New York utilising wide bodied DC 10 aircraft. Skytrain sold round trip tickets for $US236, competing with Pan Am, British Airways and other European and North American 'full service' airlines with a price offering about $US400 less than the then going rate: see Newsweek 4 October 2004.

33 Australia Meat Holdings Pty Ltd v TPC (1989) ATPR 40-932 at page 50,011.

34 For instance, in Trade Practices Commission v Ansett Transport Industries (Operations) Pty Ltd (1978) 32 FLR 305, the court had to identify the relevant market within which to assess the likely effect of a takeover of the car rental company, Avis. The court observed that car rental businesses were conducted throughout Australia by a large number of operators. Most of those operators conducted their activities in a limited geographic area comprising a capital city, a country city or town or a geographic region. A limited number
narrow a geographic boundary will result in too narrow a description of the market, thereby creating the appearance of a greater effect than in fact exists.

2.39 This point is also well illustrated by the decision of the full Federal Court in *Singapore Airlines* \(^{35}\) in which the court noted that there was no real dispute that the geographic market in issue was Australia-wide because, although some competitors would confine their activities to one or more centres, [t]he evidence indicated that the opportunity existed for a travel agent based in Perth to expand its activities to other capitals.

2.40 As the ACCC has acknowledged in its Merger Guidelines, the *Trade Practices Act 1974* does not define markets as necessarily being wholly within Australia, as long as some part of the relevant market is within Australia.\(^{36}\)

2.41 Recognising that the market should comprehend the widest geographic area within which, given sufficient economic incentive, buyers can switch from one airline to another and airlines from one route to another\(^{37}\), the geographic boundaries of the relevant market are logically to be regarded as from Australia to any destination in the world served by regular passenger air services and from any such destination to Australia.

2.42 The ACCC Discussion Paper makes the fundamental error of assuming the geographic boundaries of the markets to be considered in this case, without factual basis or analysis. In doing so it falls into the error of choosing as the relevant market for consideration of possible competitive effects, a field of rivalry between airlines that is far too narrow.

2.43 Considered from the supply side, the airline business is essentially a network business. IATA member airlines operate networks from Australia to other parts of the world and from other parts of the world to Australia. Those networks change over time depending on market conditions. Furthermore, the IATA tariff coordination and interline system under consideration in this case is a global tariff coordination and interlining system. Although it may establish fares on a regional basis, it is not a route specific system. Fares are established in packages for travel between Australia and other continents and regions of the world.\(^{38}\)

2.44 Given sufficient economic incentive, every airline operating to/from Australia is able to provide air transportation services, on its own equipment or through bilateral or multilateral interlining, from Australia to any destination in the world. Equally, any airline operating in the country of origin of a passenger wishing to travel to or through

---

\(^{35}\) *Singapore Airlines Ltd v Taprobane Tours WA Pty Ltd* (1991) 33 FCR 158, at para 51.

\(^{36}\) See, for example, ACCC Merger Guidelines paragraph 5.63


\(^{38}\) This is described in detail in the IATA Tariff Coordination and Interlining Submission, 24 May 2004, paragraph 14.23 - 14.25.
Australia can provide air transportation services, on its own equipment or through bilateral or multilateral interlining, from that country to Australia.

2.45 Of course not all airlines operating services to or from Australia offer services on their own equipment to or from every one of the more than 3,800 destinations throughout the world, but as the court in Ansett/Avis noted, not all competitors contest the entire market. In Ansett/Avis the car rental market was not found to be geographically limited to specific airport locations. The market for air transport services should equally not be thought to be limited to specific city pairs.

2.46 Turning to the demand side, as noted above the ACCC Discussion Paper draws a distinction between what are referred to as 'leisure passengers' and 'business passengers', putting forward the unsubstantiated theory that, for journeys over 4,000 kilometres, they constitute different markets. This is a false dichotomy.

2.47 It is axiomatic that consumers seeking to use air transport services do so for many reasons, but whatever the reason, they may be divided into two broad categories - those who have, on the particular occasion, a discretion about the destination and those who do not, but they do not divide into those who travel for leisure and those who do not. For example, people who travel for holidays may have a wide discretion, but those who travel to visit friends and relatives may have more limited destination choices. Those who travel for a business purpose may, on the particular occasion, have little discretion, or they may have some discretion depending on their position and the nature of their business.

2.48 A market definition confined geographically to a specific route makes little sense in relation to either category for the purposes of assessing the effects on competition of the global IATA Tariff Coordination and Interlining system.

2.49 First, in relation to discretionary travellers, the group that equates most closely with the 'leisure traveller' group the ACCC Discussion Paper suggests, the very fact that they have discretion counters any route specific geographic limitation. As the Federal Court pointed out in Singapore Airlines:

> In the end the relevant substitutions are not between airlines, but between destinations. The evidence supports the conclusion that there are island holiday packages available at the retail and wholesale levels which are substitutable for Maldive Island holiday services. The range of possible alternatives is wide ... and would include such destinations as Bali, Fiji, Tahiti, New Caledonia, Hawaii, Penang, the Philippines, the Solomon Islands, the Barrier Reef Islands, Guam and Mauritius. It is not at all clear that the product market would not extend to the provision of holiday package tours to the Mediterranean and Caribbean Islands. Whatever its outer limits, there is nothing to support the view that Singapore Airlines would have a substantial degree of market power in any market covering

---

39 OAG Worldwide Limited, September 2003
41 The 4,000 kilometre issue is dealt with at Section 4 Paragraph 4 below.
42 eg. Business executives in a multinational company may choose where the internal business meeting is to be held, businesses may choose from a range of destinations for their annual sales meeting, customer forum or firm conference.
the provision of island holiday services across a range of destinations.  ... [O]nce it is accepted that the market properly defined ranges at least as far as other island holiday destinations, there is no basis for attributing to Singapore Airlines a substantial degree of power in the relevant market.

2.50 The proposition that market should, for the purposes of this application, be regarded as route specific even for passengers that have little or no discretion also lacks validity.

2.51 While the routing may be one of the considerations the passenger takes into account in determining which airline to choose for any given journey it is the destination that is non-discretionary; not the route.

**Factual example 2**

Any airline operating services outbound from Australia on the Sydney - London route is likely to have non-discretionary passenger with a destination of any city in Asia, Africa, the Middle East or the Indian subcontinent (connecting through, for instance, Kuala Lumpur, Singapore, Bangkok, Hong Kong) or any destination in Europe (connecting in London), or the destination may be North or South America as part of a multi destination round world ticket.

Any airline operating services inbound to Australia on the Los Angeles - Sydney route is likely to have non-discretionary passenger with a destination of any city in Australia, or Papua New Guinea, or the destination may be Asia, the Middle East or Europe as part of a multi destination round world ticket.

2.52 Even if it were accepted that a route specific market definition is appropriate, any analysis of the route would need to encompass all relevant possibilities - not just a limited few airlines. The following table shows one of the routes selected in the ACCC Discussion Paper - the Australia - London route (which we assume to be Sydney-London), illustrating the range of choices that would be available.

**Table 4A**

**Sydney - London route - return economy fare choices available**

<table>
<thead>
<tr>
<th>Airline</th>
<th>No. of fares</th>
<th>Fare amount</th>
<th>Permitted departure date range</th>
<th>Travel time one-way</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aeroflot</td>
<td>3</td>
<td>$1,693-$1,776</td>
<td>04Oct2005-11Nov2005</td>
<td>32 hours 25 mins</td>
</tr>
<tr>
<td>Aeroflot</td>
<td>1</td>
<td>$1,876</td>
<td>16Sep2005-30Nov2005</td>
<td>32 hours 25 mins</td>
</tr>
<tr>
<td>Aerolineas Argentinas</td>
<td>2</td>
<td>$2,688</td>
<td>16Aug2005-30Nov2004</td>
<td>41 hours 10 mins</td>
</tr>
<tr>
<td>Air Canada</td>
<td>3</td>
<td>$2,423-$2,456</td>
<td>04Oct2005-11Nov2004</td>
<td>31 hours 55 mins - 36 hours 55 mins</td>
</tr>
<tr>
<td>Air Canada</td>
<td>1</td>
<td>$2,634</td>
<td>25Feb2005-24Mar2006</td>
<td>31 hours 55 mins - 36 hours 55 mins</td>
</tr>
<tr>
<td>Air China</td>
<td>4</td>
<td>$1,612-$1,867</td>
<td>21Oct2005-17Nov2005</td>
<td>53 hours</td>
</tr>
<tr>
<td>Air China</td>
<td>2</td>
<td>$4,534-$6,867</td>
<td>01Apr2005-21Mar2005</td>
<td>53 hours</td>
</tr>
<tr>
<td>Air France</td>
<td>2</td>
<td>$1,478-$1,556</td>
<td>04Oct2005-04Dec2005</td>
<td>25 hours 50 mins</td>
</tr>
<tr>
<td>Air France</td>
<td>4</td>
<td>$1,745-$1,867</td>
<td>04Oct2005-11Nov2005</td>
<td>25 hours 50 mins</td>
</tr>
<tr>
<td>Air France</td>
<td>1</td>
<td>$4,723</td>
<td>05Jul2005-31Mar2006</td>
<td>25 hours 50 mins</td>
</tr>
<tr>
<td>American</td>
<td>1</td>
<td>$2,559</td>
<td>04Oct2005-11Nov2005</td>
<td>28 hours 40 mins</td>
</tr>
</tbody>
</table>

43 This is the group that equates that equates most closely with the 'business traveller' group suggested by the ACCC Discussion Paper.
<table>
<thead>
<tr>
<th>Airline</th>
<th>No. of fares</th>
<th>Fare amount</th>
<th>Permitted departure date range</th>
<th>Travel time one-way</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asiana Airlines</td>
<td>2</td>
<td>$1,778-$2,167</td>
<td>01Nov2005-25Jan2006</td>
<td>44 hours 30 mins</td>
</tr>
<tr>
<td>Austrian</td>
<td>1</td>
<td>$1,406</td>
<td>04Oct2005-24Nov2005</td>
<td>26 hours 45 mins</td>
</tr>
<tr>
<td>Austrian</td>
<td>2</td>
<td>$1,445</td>
<td>04Oct2005-25Nov2005</td>
<td>26 hours 45 mins</td>
</tr>
<tr>
<td>Austrian</td>
<td>12</td>
<td>$1,628-$1,945</td>
<td>04Oct2005-11Nov2005</td>
<td>26 hours 45 mins</td>
</tr>
<tr>
<td>Cathay Pacific</td>
<td>3</td>
<td>$1,623-$1,628</td>
<td>04Oct2005-11Nov2005</td>
<td>23 hours 55 mins</td>
</tr>
<tr>
<td>Cathay Pacific</td>
<td>8</td>
<td>$1,645-$1,834</td>
<td>04Oct2005-6Nov2005</td>
<td>23 hours 55 mins</td>
</tr>
<tr>
<td>China Eastern</td>
<td>1</td>
<td>$1,756</td>
<td>16Aug2005-15Dec2005</td>
<td>47 hours 5 mins</td>
</tr>
<tr>
<td>Emirates</td>
<td>1</td>
<td>$1,430</td>
<td>01Oct2005-02Dec2005</td>
<td>24 hours 50 mins</td>
</tr>
<tr>
<td>Emirates</td>
<td>8</td>
<td>$1,530-$2,060</td>
<td>04Oct2005-11Nov2005</td>
<td>24 hours 50 mins</td>
</tr>
<tr>
<td>EVA Air</td>
<td>2</td>
<td>$1,334-$1,667</td>
<td>15Sep2005-30Nov2005</td>
<td>31 hours 50 mins</td>
</tr>
<tr>
<td>EVA Air</td>
<td>3</td>
<td>$1,489-$1,823</td>
<td>14Jul2005-07Dec2005</td>
<td>31 hours 50 mins</td>
</tr>
<tr>
<td>EVA Air</td>
<td>6</td>
<td>$1,556-$2,167</td>
<td>01Oct2005-07Dec2005</td>
<td>31 hours 50 mins</td>
</tr>
<tr>
<td>EVA Air</td>
<td>6</td>
<td>$1,612-$2,223</td>
<td>01Oct2005-28Feb2006</td>
<td>31 hours 50 mins</td>
</tr>
<tr>
<td>EVA Air</td>
<td>8</td>
<td>$2,500-$3,356</td>
<td>01Apr2005-21Mar2006</td>
<td>31 hours 50 mins</td>
</tr>
<tr>
<td>Finnair</td>
<td>9</td>
<td>$1,762-$4,084</td>
<td>04Oct2005-11Nov2005</td>
<td>26 hours 5 mins</td>
</tr>
<tr>
<td>Gulf Air</td>
<td>5</td>
<td>$1,789-$2,323</td>
<td>01Apr2005-31Mar2005</td>
<td>30 hours 40 mins</td>
</tr>
<tr>
<td>Gulf Air</td>
<td>10</td>
<td>$1,823-$2,356</td>
<td>20Apr2005-31Mar2005</td>
<td>30 hours 40 mins</td>
</tr>
<tr>
<td>Gulf Air</td>
<td>10</td>
<td>$2,300-$2,800</td>
<td>29Jun2005-31Dec2005</td>
<td>30 hours 40 mins</td>
</tr>
<tr>
<td>Gulf Air</td>
<td>8</td>
<td>$2,334-$2,834</td>
<td>02Jul2005-31Dec2005</td>
<td>30 hours 40 mins</td>
</tr>
<tr>
<td>JAL</td>
<td>10</td>
<td>$1,500-$1,895</td>
<td>04Oct2005-11Nov2005</td>
<td>38 hours 45 mins</td>
</tr>
<tr>
<td>KLM</td>
<td>10</td>
<td>$1,589-$3,367</td>
<td>16Sep2005-05Dec2005</td>
<td>25 hours 10 mins</td>
</tr>
<tr>
<td>KLM</td>
<td>2</td>
<td>$3,756-$3,778</td>
<td>01Apr2005-31Mar2006</td>
<td>25 hours 10 mins</td>
</tr>
<tr>
<td>Korean Air</td>
<td>2</td>
<td>$1,428-$1,745</td>
<td>01Oct2005-11Nov2005</td>
<td>42 hours 15 mins</td>
</tr>
<tr>
<td>Korean Air</td>
<td>4</td>
<td>$1,462-$1,812</td>
<td>1Nov2005-11Nov2005</td>
<td>42 hours 15 mins</td>
</tr>
<tr>
<td>Korean Air</td>
<td>6</td>
<td>$1,750-$1,950</td>
<td>26Aug2005-19Nov2005</td>
<td>42 hours 15 mins</td>
</tr>
<tr>
<td>Lufthansa</td>
<td>6</td>
<td>$1,630-$2,148</td>
<td>04Oct2005-11Nov2005</td>
<td>26 hours 5 mins</td>
</tr>
<tr>
<td>Malaysia Airlines</td>
<td>17</td>
<td>$1,478-$4,156</td>
<td>04Oct2005-11Nov2005</td>
<td>24 hours 45 mins -27 hours 55 mins</td>
</tr>
<tr>
<td>Olympic</td>
<td>6</td>
<td>$2,203-$2,436</td>
<td>16May2005-31Dec2005</td>
<td>34 hours 10 mins</td>
</tr>
<tr>
<td>Qantas</td>
<td>4</td>
<td>$1,499-$1,596</td>
<td>20Sep2005-02Dec2005</td>
<td>23 hours 20 mins</td>
</tr>
<tr>
<td>Qantas</td>
<td>2</td>
<td>$1,760-$1,910</td>
<td>04Oct2005-11Nov2005</td>
<td>23 hours 20 mins</td>
</tr>
<tr>
<td>Royal Brunei</td>
<td>11</td>
<td>$1,434-$1,867</td>
<td>20Oct2005-11Nov2005</td>
<td>28 hours 50 mins</td>
</tr>
<tr>
<td>Royal Jordanian</td>
<td>1</td>
<td>$1,667</td>
<td>24Aug2005-04Dec2005</td>
<td>50 hours 25 mins</td>
</tr>
<tr>
<td>SAA</td>
<td>2</td>
<td>$2,689-$2,813</td>
<td>19Aug2005-30Nov2005</td>
<td>29 hours</td>
</tr>
<tr>
<td>Singapore</td>
<td>3</td>
<td>$1,473-$1,478</td>
<td>20Sep2005-02Dec2005</td>
<td>23 hours 30 mins</td>
</tr>
<tr>
<td>Singapore</td>
<td>46</td>
<td>$1,750-$2,528</td>
<td>04Oct2005-11Nov2005</td>
<td>23 hours 30 mins</td>
</tr>
<tr>
<td>Swiss</td>
<td>1</td>
<td>$1,923</td>
<td>07Sep2005-31Dec2005</td>
<td>25 hours 20 mins</td>
</tr>
<tr>
<td>Swiss</td>
<td>6</td>
<td>$2,089-$2,112</td>
<td>15Sep2005-02Dec2005</td>
<td>25 hours 20 mins</td>
</tr>
<tr>
<td>Thai</td>
<td>18</td>
<td>$1,324-$2,234</td>
<td>04Oct2005-11Nov2005</td>
<td>24 hours 20 mins</td>
</tr>
<tr>
<td>Thai</td>
<td>1</td>
<td>$4,123</td>
<td>01Apr2005-31Mar2006</td>
<td>24 hours 20 mins</td>
</tr>
<tr>
<td>United</td>
<td>1</td>
<td>$2,714</td>
<td>04Oct2005-11Nov2005</td>
<td>26 hours 30 mins -37 hours 30 mins</td>
</tr>
<tr>
<td>Vietnam Airlines</td>
<td>4</td>
<td>$1,389-$1,534</td>
<td>10Oct2005-15Nov2005</td>
<td>29 hours 50 mins</td>
</tr>
<tr>
<td>Vietnam Airlines</td>
<td>8</td>
<td>$1,700-$1,845</td>
<td>10Oct2005-16Nov2005</td>
<td>29 hours 50 mins</td>
</tr>
<tr>
<td>Virgin Atlantic</td>
<td>2</td>
<td>$1,538</td>
<td>20Sep2005-02Dec2005</td>
<td>24 hours</td>
</tr>
<tr>
<td>Virgin Atlantic</td>
<td>12</td>
<td>$1,760-$3,560</td>
<td>04Oct2005-11Nov2005</td>
<td>24 hours</td>
</tr>
</tbody>
</table>

Sources: www.travelnow.com.au and Amadeus Global Travel Distribution SA. Fares are for travel departing 9 November and returning 23 November 2005 as at 13 September 2005. Travel time calculated as total elapsed time, including ground time at connection points. For those airlines with online services
between Sydney and London, travel time was calculated on the basis of those services. For those airlines that do not operate to/from Australia, travel time was calculated on the basis of the airlines’ codeshare services.

2.53 In IATA’s submission, from a geographic viewpoint the relevant market is the market for international air transport from Australia to destinations throughout the world and for international air transport from other parts of the world to Australia, or, as IATA put it in its original submission, the ‘facility by which passengers can travel to destinations in other countries and from destinations in other countries to destinations in Australia’.

Considerations of time

2.54 As the ACCC is aware, considerations of time involve judgments concerning the period over which substitution possibilities are to be considered. In drawing the boundaries between groups of buyers and groups of sellers to identify the relevant market, it is long-run substitution rather than short-run substitution that is important in determining the issue. If, within a foreseeable time, buyers or sellers may enter or products may be substituted in response to small but significant and non-transitory increase in price (‘SSNIP’), then barriers to entry are to be regarded as low and the market will include that buyer, seller or product, even if such entry is unlikely in the short term.

2.55 As the Tribunal noted in AGL, substitution possibilities and market boundaries may change over time. This is particularly so in a dynamic industry such as international aviation where changes in legislative environment, technology, trade patterns, migration and development of tourism infrastructure are constantly occurring. The ACCC Discussion Paper contains none of these considerations.

2.56 The ACCC Discussion Paper fails to consider that, on the supply side, airlines enter and exit routes regularly as demand patterns change and competition is felt from other airlines. There has been a significant amount of entry and exit since 1985. The following provides some examples.

**Factual example 3**

Northwest and Continental have both entered and exited the Australia - USA routes. American has entered the route but no longer operates its own services on the route. Pan American has exited the route, selling its route rights to United. United has entered the route. Air New Zealand has entered and exited the direct route between Australia and the USA.

Lufthansa, Air France, Alitalia, Olympic and KLM have either exited Australia - Europe routes or moved to code share services for the Australia - Asia leg.

Ansett International entered and exited the routes between Australia and Japan, New Zealand, Fiji and Hong Kong.

---

44 IATA original submission paragraph 10.3
46 Re AGL Cooper Basin Natural Gas Supply Arrangements (1997) ATPR 41-593.
Qantas has entered and exited routes from Australia to Paris and Rome, moving to code shares between Singapore and France and between Asia and Italy.

Emirates and Gulf Air have entered routes between Australia and the Middle East.

Pacific Blue, Emirates, Garuda and Thai International have entered the trans-Tasman route.

Lan Chile has entered the route between Australia and Chile and between Australia and New Zealand.

All Nippon Airways and Northwest have entered and exited the route between Australia and Japan.

Qantas, Air China, China Eastern and China Southern have entered on routes between the People's Republic of China and Australia.

2.57 The facts are clear that, from the supply side, when the time over which substitution possibilities are to be considered is taken into account international air transport is a global business. Airlines operate networks of routes that are constantly changing depending on market conditions and government constraints. The city pairs chosen for analysis in the ACCC Discussion Paper are, from the supply side, not markets at all.

2.58 On the demand side, consumers make different choices over time, even if the required destination is fixed for one particular journey. Taken over time passengers who travel for business purposes tend to do so with a degree of frequency and not necessarily to the same destination. This is one reason why airlines include frequent flyer programs, designed to encourage and reward loyalty to the airline's network, as part of their competitive mix.

3. The ACCC Discussion Paper - IATA's specific comments

3.1 This section of IATA's response is constructively critical of the views expressed in the ACCC Discussion Paper on market definition, as this provided a useful example of the difficulties in correctly identifying relevant markets. To do so is not a simple matter.

3.2 As noted above, IATA submits that, in considering the market definition issue the ACCC Discussion Paper has fallen into the same error as the applicant in Singapore Airlines. It has formed a view about the markets that is entirely too narrow based on assumptions that are at odds with the facts.

3.3 This is best illustrated by reference to that part of the ACCC Discussion Paper that deals with market identification by reference to prior ACCC decisions, rather than undertaking a factual analysis of the area of close competition, 'the field of rivalry', between airlines. In doing so the ACCC Discussion Paper has ignored the Federal Court's decision in Singapore Airlines and the precedent it sets on the process of market identification in international aviation cases.

3.4 As the courts and Tribunal have consistently pointed out, identification of relevant markets is part of the process of making decisions about what really happens, and is likely to happen, to competition in the specific case presented. This is an exercise based on fact, not theory.
The ACCC Discussion Paper summarises IATA's original submission as it applies to market definition, noting that IATA had submitted that the relevant market is the market for the 'facility by which passengers can travel to destinations in other countries and from destinations in other countries to destinations in Australia'\textsuperscript{47}. However, the paper then proceeds to reject that submission, preferring to 'adopt an approach to market definition consistent with the views it has expressed in previous assessments'\textsuperscript{48} without further justification for doing so.

The ACCC Discussion Paper then asserts that there are separate markets for business passengers and leisure passengers on long haul routes, but that business passengers and leisure passengers are in the same market for short haul routes. The reason for the distinction is unexplained.\textsuperscript{49} The ACCC Discussion Paper then asserts that long haul routes are routes over 4,000 kilometres because '[t]he 4,000 kilometre route is accessible to non-stop services by narrow bodied aircraft such as Boeing B737-800 and Airbus A320 aircraft commonly used by low cost carriers'.\textsuperscript{50}

Finally, the ACCC Discussion Paper states that '[f]or separate business traveller markets are identified the markets will be taken to be point to point in nature.'\textsuperscript{51} No explanation is provided for the view that there is a 'point to point' geographic dimension to the 'separate business traveller market' asserted in the ACCC Discussion Paper.

The ACCC Discussion Paper does not explain what it means by the term 'point to point', but it is apparent from other parts of the paper that the meaning attributed to the term is that it applies to specific routes (Australia to Los Angeles, Australia to London).\textsuperscript{52} This, when applied to some limited analysis undertaken in relation to those routes, led the ACCC to conclude that 'the process of IATA Tariff Coordination leads to a lessening of competition between airlines when setting their own non-IATA fares for travel on point to point routes'\textsuperscript{53} - a conclusion only relevant if each route were to constitute a separate market within the meaning of the Trade Practices Act.

There are, as this IATA's submission points out, a number of problems with the approach taken in the ACCC Discussion Paper. They are dealt with throughout this part of the submission and are summarised as follows:

(a) the facts do not support the proposition that each specific route is a market, whether that route is long haul or short haul;

(b) the proposition that there are separate markets for business travellers and leisure travellers is not supported by the facts;

\textsuperscript{47} IATA Original Submission paragraph 10.3
\textsuperscript{48} ACCC Discussion Paper paragraph 7.15.
\textsuperscript{49} ACCC Discussion Paper paragraph 7.16.
\textsuperscript{50} ACCC Discussion Paper paragraph 7.17.
\textsuperscript{51} ACCC Discussion Paper paragraph 7.18.
\textsuperscript{52} See ACCC Discussion Paper paragraphs 9.2, 9.3 and 9.9.
\textsuperscript{53} ACCC Discussion Paper paragraph 9.45.
any conclusion that the market for leisure passengers, were that a separate
market, is route specific is contrary to fact and to the explicit findings of the
Federal Court in Singapore Airlines; and

(d) the proposition that there is a distinction to be drawn, in defining the market,
between flights of over and under 4,000 kilometres is not supported by the
facts.

3.10 It is appropriate to note that the term 'market' is used throughout the ACCC Discussion
Paper in ways that appear inconsistent with market definition the ACCC Discussion
Paper adopts. For instance:

(a) Paragraph 5.37: 'the sector sale approach has not been introduced into long
haul markets involving Australia, although it has been introduced on some
other long haul routes.'

(b) Paragraph 6.8: 'The leisure market is very price sensitive'.

(c) Paragraph 9.10: 'Some markets involving Australia, such as the trans-Tasman
market and the Europe leisure traveller market seem reasonably competitive
while other markets such as the North America and South Africa markets have
lower levels of competition.'

(d) Paragraph 9.49: 'IATA excursion fares do not therefore seem to make a
significant contribution to travel markets.'

(e) Paragraph 9.93: 'the non IATA fare market'.

(f) Paragraph 10.66: 'the extent to which IATA fares are necessary in today's
international air passenger markets.'

(g) Paragraph 10.122: 'IATA interline fares on Australian routes in today's
aviation markets.'

3.11 In listing the various uses made of the term 'market' in the ACCC Discussion Paper
IATA is not intending to be unduly critical of the ACCC Discussion Paper. Rather, the
summary is intended to illustrate the fact that market definition is a difficult task.
Successful identification of relevant markets depends on a solid factual foundation. Only
after an analysis of the facts has been undertaken can relevant markets be identified.
Only then can the effect of IATA Tariff Coordination and Interlining on competition be
assessed.

4. The 4,000 kilometre issue

4.1 As noted above, the ACCC Discussion Paper asserts that long haul routes are routes
over 4,000 kilometres because '[t]he 4,000 kilometre route is accessible to non-stop
services by narrow bodied aircraft such as Boeing B737-800 and Airbus A320 aircraft
commonly used by low cost carriers.'

4.2 In IATA's submission this view lacks credibility because the only basis for drawing a
distinction between long haul routes and short haul routes is based on a static and

54 ACCC Discussion Paper paragraph 7.17.
limited view of the type of aircraft Australian based 'low cost' carriers presently operate. This is, in IATA's submission, an irrelevant consideration.

4.3 The distinction between long haul routes and short haul routes appears to be an attempt to distinguish the Tribunal's decision in Re Qantas\(^{55}\). In that case the Tribunal rejected the ACCC view that business passengers and leisure passengers were in different markets, because 'the difference in the overall demand characteristics of business and leisure travellers is therefore not so great that a discontinuity in substitution possibilities between business and leisure travellers can be said to exist, justifying the characterisation that the applicants supply air passenger services into two distinct markets in the trans-Tasman, namely a business traveller market in which the applicants are the primary competitors along with Emirates, and a leisure traveller market in which Virgin Blue and Emirates are also competitors.'\(^{56}\)

4.4 Three comments can be made about the Tribunal's view:

(a) Although the Tribunal acknowledged that the above conclusion was particularly so given the short-haul nature of the trans-Tasman routes\(^{57}\) that provides no support for the 4,000 kilometre distinction the ACCC Discussion Paper seeks to draw, or any arbitrary limit based on the operating distance of a particular type of aircraft.

(b) The distinction between low cost airlines and full service airlines is not a relevant distinction. The Tribunal explicitly grouped Virgin Blue and Emirates as competitors to Qantas and Air New Zealand in providing international airline services to leisure travellers.

(c) The Tribunal's view is an acknowledgment that each case depends on its own facts.

4.5 Assessment of relevant markets is part of the forward looking analysis required for the purpose of assessing likely detriment. A static view of the market based on aircraft types does not logically fit with the task the ACCC is to undertake.

4.6 However, even if a static view were relevant the assertion that 'low cost' airlines only operate Boeing B737-800 and Airbus A320 aircraft is incorrect and the proposition that non-stop services on routes of under 4,000 kilometres defines a market is incorrect. As the examples in the following table demonstrate, first, there are low cost airlines who either utilise aircraft other than Boeing B737-800 and Airbus A320. Secondly, the proposition that there is a 4,000 kilometre limit even for those who do use those aircraft is dubious.


\(^{56}\) Re Qantas Airways Ltd [2004] ACompT 9 paragraph 244.

\(^{57}\) Re Qantas Airways Ltd [2004] ACompT 9 paragraph 244.
## Table 4B

<table>
<thead>
<tr>
<th>Airline</th>
<th>Aircraft operated</th>
<th>Aircraft range</th>
<th>Non-stop routes operated over 4,000km</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Airlines</td>
<td>B767-300 ER</td>
<td>9,085 km</td>
<td>Cairns to Nagoya, Fukuoka, Hong Kong, Osaka and Singapore.</td>
</tr>
<tr>
<td>Gulf Traveller</td>
<td>B767-300 ER</td>
<td>4,344 km</td>
<td>Dubai to Jakarta</td>
</tr>
<tr>
<td>JetBlue</td>
<td>A320</td>
<td>6,038 km &amp; 5,449 km</td>
<td>Perth to Christchurch, Wellington, Nadi and Port Vila</td>
</tr>
<tr>
<td>Virgin Blue / Pacific Blue</td>
<td>B737-700 &amp; B737-800</td>
<td>4,184 km</td>
<td>Vancouver to Honolulu and Maui</td>
</tr>
<tr>
<td>WestJet</td>
<td>B737-200 B737-600 B737-700 B737-800</td>
<td>5,667 km</td>
<td>Edmonton/Winnipeg to London Toronto to Belfast, Cardiff, Glasgow, Manchester, London and Paris Ottowa to Glasgow and London Halifax to Belfast, Glasgow and London Montreal to London and Paris</td>
</tr>
<tr>
<td>Zoom</td>
<td>B767-300 ER</td>
<td>10,549 km</td>
<td>Vancouver/Calgary to Glasgow, Manchester and London Edmonton/Winnipeg to LondonToronto to Belfast, Cardiff, Glasgow, Manchester, London and Paris Ottowa to Glasgow and London Halifax to Belfast, Glasgow and London Montreal to London and Paris</td>
</tr>
</tbody>
</table>

Source: airline websites.

4.7 International aviation is a network business and although 'low cost' airlines operate on a different business model to 'full service' airlines. Both types of airlines operate on a network basis.

4.8 Experts predict that within five years low cost carriers will be operating on long haul routes, and this trend is already beginning to emerge as the above facts demonstrate. For instance, Ryanair has recently announced that it is presently considering a long haul low cost operation, and Qantas is reported as having plans to establish a new low cost airline, Jetstar International, with flights from Australia to South East Asia and China and possibly Japan in the second half of 2006.59

4.9 The proposition that low cost carriers and full service airlines are not in the same market is not a sustainable proposition. It was rejected by the Tribunal in Qantas/Air New Zealand and ought to be rejected by the ACCC in this case.

---

59 Sydney Morning Herald 'Qantas passes baton to Jetstar', 18 October 2005.
SECTION 5

IATA'S RESPONSE TO THE ACCC'S DISCUSSION OF AIRLINE PRICING MECHANISMS

(DISCUSSION PAPER, PARAGRAPH 9)
1. **Introduction**

1.1 This section of IATA's response, which provides context in relation to the international airline industry, has been prepared to address what appears from the ACCC Discussion Paper to be misunderstandings about the complexities which airlines face on a daily basis, to explain some basic concepts, an understanding of which is necessary in order to appreciate many of the points IATA has made in this response and to provide context for that response.

1.2 This Section is particularly relevant to:

- the implication that airlines set their fares in such a manner as to force some passengers into higher fare categories (paragraph 9.87); and
- the proposition that airlines may collude at IATA Traffic Conference meetings, either explicitly or tacitly, leading to a flow on effect on their online fares (paragraphs 9.19 - 9.21).

1.3 This section draws on and adds to the Tribunal's reasons for decision in *Re Qantas*, but with important additions and variations prepared by IATA.

2. **Pricing and revenue management**

2.1 The manner in which airlines price their available seats and in which they price discriminate, is a factor to be taken into account when examining competitive conduct and behaviour in the international airline industry.

2.2 There are two key aspects to revenue management, which airlines utilise in the lead up to the departure of a flight, in order to maximise the revenue generated by the flight:

- short-term capacity variations, and
- pricing and yield management.

2.3 Short-term capacity variations are made by airlines when implementing schedules in order to manage capacity on particular flights. They are made in response to demand for flights which results from circumstances that do not apply for the entire schedule season. Short-term capacity variations are made in a number of ways, including by swapping aircraft so that the size of the aircraft operating on a particular flight is changed, or by adding a flight on a particular day.

2.4 Pricing and yield management are used to practise price discrimination thereby maximising revenue by selling the maximum number of seats and ensuring the fare paid by each passenger for a ticket is at, or as close as possible to, the limit of the passenger’s willingness to pay.
This price discrimination is appropriate and efficient, especially in industries such as the international airline industry, which can be characterised as an industry with economies of scale, where the incremental cost of producing one more unit is less than the average cost of production. Achieving maximum economic efficiency would require that price is set equal to marginal cost.

Consumers will purchase additional units of a good or service up to the point where the value they place on the last unit consumed is just equal to the price they must pay. Economic efficiency requires that the value of the last unit produced just exceed or equal the cost of the last unit produced. Higher consumption would be undesirable since the value consumers place on the last units consumed would be less than the incremental costs of producing those last units. Lesser consumption would be sub-optimal since production of a few more units would be at a lower cost than the value consumers would place on being able to consume a few more units.

However, in industries with economies of scale, marginal cost pricing would result in a price which is less than average cost, resulting in losses for the service provider. For the industry to be economically viable, it must either be subsidised or it must set prices (or some prices) above marginal costs.

One approach is to simply set prices equal to average cost. This is regarded as undesirable because:

- some users/consumers may be unable to pay average cost prices, although they may be able to cover the marginal cost and make some contribution toward fixed costs; and

- pricing based on average cost is economically inefficient, may result in the loss of some traffic, and ultimately be detrimental in the long term to the passenger or shipper and dependent industries such as tourism and distribution, and to the general economy.

When an industry is subject to economies of scale, and if the nation is unable or unwilling to subsidize the industry, then economists advocate the use of differential pricing. Under differential pricing, different passengers or shippers pay different prices.

There are a number of forms which differential pricing could take. Pure differential pricing, under which each consumer is charged a unique price based on their willingness or ability to pay, would achieve full economic efficiency. That is, pure differential pricing achieve the same level of economic efficiency as marginal cost pricing with subsidy would achieve. Variants of differential pricing can also achieve full economic efficiency, provided at least one group of consumers is charged marginal cost prices.

Another form of differential pricing, often used in regulated network industries, is Ramsey pricing. Ramsey pricing is referred to by economists as a second best pricing principle, as under a broad group of conditions it comes the closest to achieving full economic efficiency subject to the requirement that the firm break even. Ramsey pricing is typically applied to a finite number of consumer groups and generally does not achieve full economic efficiency, although if applied to the greatest degree, with each consumer paying a unique price, it is the same as pure differential pricing in achieving full economic efficiency.

Differential pricing is not only a desirable form of pricing, in the absence of large subsidies from government; it is the best pricing policy. Economists describe it as an
2.13 Differential pricing in various forms is universally used in the airline and rail industries. In the airline industry, there is a wide range of prices charged, and while we are unaware of any researcher establishing whether airlines precisely charge Ramsey prices, the very low prices available in virtually all markets is consistent with the achievement of a high degree of economic efficiency, undoubtedly a higher level of economic efficiency than average cost pricing would achieve.

2.14 Under Ramsey pricing, all passengers and shippers should cover their marginal costs and make some contribution to fixed costs. This contribution to fixed costs, expressed as a mark-up over marginal costs, should be an inverse function of the price elasticity of the passenger or shipper.

2.15 Price elasticity refers to the degree to which passengers and shippers respond to increases in the price of the services by reducing the level of services consumed. If a modest price increase results in a more than proportionate reduction in usage or demand of services, then the demand for the service by passengers or shippers is regarded as price elastic. Where there is a less than proportionate reduction in demand, the demand for the service is considered price inelastic.

2.16 Differential pricing is a rational and efficient response to the economic challenges faced by airlines. The fares paid by passengers travelling in economy class on a particular flight will legitimately vary widely. Some passengers will pay the full economy fare, while others will pay a range of discount fares depending on how far in advance they purchased the ticket, the length of the trip, the days of travel and the departure time of the flight. Cheaper economy fares generally have more restrictions – Saturday night stayover, no refund or changes, etc. Demand elastic passengers purchase the cheaper, restricted tickets while other passengers, who generally have a greater ability to pay (i.e. are demand inelastic) but require more flexibility purchase higher priced tickets without restrictions.

2.17 Both groups are better off with this pricing. Without the higher-paying passengers, other passengers would be priced out of the market; without some passengers travelling on cheaper tickets making a contribution to fixed costs, passengers paying the higher prices would collectively pay even higher prices.

2.18 The airlines use sophisticated yield management systems designed to maximize revenues by adjusting fares and the inventory of seats by fare class to take advantage of the differences in these demand elasticities among their numerous markets.

2.19 Airlines typically have a number of fare 'buckets' in each travel class. There may be two or three buckets in first and business class and a larger number in economy class, often into the high 20s. Fares in each bucket are priced differently, with different conditions. A bucket can contain many fare classes, each with somewhat different prices and restrictions. The number of seats available in each bucket on any given flight will vary according to the airline's projections of demand for the flight. Pricing
management involves setting the level of fares for each bucket and determining the conditions to apply to each of them.

2.20 Securing an acceptable yield through the sale of tickets to high-yield passengers close to the time of departure is not something to be criticised. It is an essential aspect of a network airline recovering its costs.

3. **The pricing cycle - transparency and long term planning**

3.1 The buckets and prices applicable to each are initially determined by specialist revenue management analysts up to 12 months prior to the flight, on a rolling basis. Yield management for a flight is a continual process throughout up to the twelve months prior to departure, with continual adjustments made to the allocation of seats between fare categories. In making those adjustments, the analysts have regard to information readily available in the market, including information on competitors’ flights on the relevant route, each competitor’s available capacity and prices for its various fare categories.

3.2 This process requires constant attention and analysis. It is not something done once per year in preparation for a meeting of an IATA Tariff Coordinating Conference. It is a dynamic process that takes place on a daily, weekly, monthly and annual basis and involves many variables.

3.3 The process varies for each airline and each route, but determining whether a change to a fare is required is a delicate balancing activity and there is a great deal of pressure to ensure that prices are correct. If flights are operating at full capacity then it may be considered that the prices are too low, however if flights are operating at only half capacity then the pricing may be considered too high. This balancing activity is particularly important given the low margins by which airlines operate.

3.4 Pricing is a proactive and reactive process. While different practices apply at each airline, the process starts with determining what is happening in the market place by examining what competitors are offering. If a competitor is offering specials or prices have dropped, this could adversely affect the yield and market for the airline’s seats. For example, if on one sector a competitor lowers its prices, but the airline has already sold all or most of its seats on that sector, there is less need for it to competitively react to its competitor’s lower prices.

3.5 Proactive pricing has regard to forward bookings, available capacity and information about the market. Airlines tend to strategically plan their pricing and yield structures up to about 14 weeks in advance in terms of special rates and offer multiple yield levels and varying seat classes depending upon demand. Those responsible look at the forward position, for some airlines on a daily basis, reviewing forward bookings on each route and comparing them with historical data. If there is a significant difference in the current booking levels and the expectation based on previous years, those responsible for reviewing forward bookings analyse the situation to determine the reason for the discrepancy.

3.6 Decisions made on proactive pricing are made over a period of weeks following the emergence of a trend that is not in accordance with targets or expectations. In deciding what actions are necessary to remedy the situation, analysis is undertaken to determine whether it is preferable to have a better yield with less passengers or a lower yield with more passengers. While this analysis takes place, the possible reactions of competitors to any pricing strategy adopted is also considered.
3.7 Short term tactical fares are a common phenomenon. On some routes, short-term tactical fares are constantly rolled over or replaced by new tactical fares. These fares are characterised by a short sales period and a limited travel period. They are released either because:

- a demand trough has been identified - forward bookings are constantly monitored against the previous year’s performance, against forecast and against budget, and where a shortfall in demand is apparent, a short term fare may be released in order to stimulate demand; or

- to respond to another carrier's tactical fare with the objective of minimising revenue loss and dilution.

3.8 Reactive tactical fares reflect the fact that any short term fare released by an airline will be matched as soon as possible by the carrier's competitors. Airlines monitor market activity closely through a number of avenues, such as published fare filings via ATPCO to GDSs, sales force networking with the travel industry, and media advertisements. New reactive tactical fares initiated by direct competitors will be assessed and, provided there is incremental capacity available, a matching fare will be released in order to remain competitive and to minimise the risk of the pre-existing bookings base being eroded.

3.9 The reactive short term tactical fare process is very time sensitive as in order to be effective an airline needs to react within 24 hours to a competitor's fare. In assessing a competitor's fare an airline needs to look at all aspects of that fare, ie the fare conditions as well as the price, as well as the other carrier's probable reasons for issuing the fare. The airline will not always release a matching fare. A decision may be made not to respond to the competitor's fare at all, or where the competitor has released fares for a number of routes the airline might release matching fares on only some of those routes.

3.10 Airline seats are highly perishable and where a flight takes off with an empty seat the airline can never recover that lost revenue. Therefore, tight inventory management, whereby loads for a flight are continually monitored and seats made available in different fare categories are adjusted accordingly, is extremely important to airlines.
SECTION 6

IATA'S RESPONSE TO THE ACCC'S DISCUSSION OF INFORMATION EXCHANGE ISSUES

(DISCUSSION PAPER, PARAGRAPH 9)
1. Introduction

1.1 This section deals with the implication in the ACCC Discussion Paper that exchanges of information between competitors inevitably leads to collusion, actual or tacit, and is therefore, by definition, unacceptable: see ACCC Discussion Paper paragraph 9.21.

2. Information sharing issues

2.1 There are a number of dynamic considerations that suggest that more information exchange is good for consumers. They are briefly summarised as follows:

(a) Information exchange may improve investment decisions. The improvement of investment decisions has received very little formal treatment in the economic literature, but may be of considerable importance. Neglecting the role of information exchange on investment decisions implies neglecting potentially large costs for consumers leading to distortions with respect to product quality, product variety, location and the future ability to respond to demand changes.

(b) Information exchange improves product positioning. In industries with product differentiation or spatial competition (as in the liner shipping industry) coordination regarding the choice of location often is beneficial to consumers, who benefit from reduced transport cost and increased total welfare. Moreover, information exchange may reduce sub-optimal production or pricing choices and, hence, reduce costs associated with excess inventories.

(c) Information exchange about the operations of rival firms is an important element of organisational learning. Benchmarking may lead to an improved distribution system and other improvements in productive efficiency, which ultimately benefit customers and consumers.

(d) Information exchange leads to better outcomes on which firm produces how much. As a result information exchange may facilitate entry and exit in an industry, an aspect of dynamic competition widely ignored in the earlier literature on information exchange.

(e) Information exchange can lower search costs for firms and consumers and thereby lower costs for customers. By the same reasoning information exchange about common inputs can lower the input costs across all firms, leading to lower prices that benefit consumers.

(f) Information exchange that improves individual estimates of the value of a good or a contract can substitute the beneficial effects of forward markets (which will not always emerge as a market outcome) and improve the market outcome by mitigating the winner’s curse, and increasing economic efficiency.
(g) The very coordination that may follow the exchange of information may have beneficial effects for consumers and welfare. If completely uncoordinated competition leads to market failure, e.g. in the form of over or under investment, then some coordination may be desirable.

2.2 The model used by competition authorities fails to take account of these dynamic benefits of information exchange. However, whether or not information exchange is beneficial or detrimental in any given case requires an assessment of all of the facts. The mere fact that information is exchanged is not determinative.

2.3 Given that, on the one hand, information exchange about individualised price and cost data raises more competition concerns than aggregated or anonymous information, and on the other hand the beneficial efficiency effects of information exchange depend on knowledge about future demand and cost, the relevant question becomes one of how information can be aggregated and/or anonymised in a way so that the competition concerns are addressed but the benefits are retained. Here the result that disaggregated and individualised information about demand can have a significant beneficial effect on consumers is relevant and suggests a trade off.

2.4 Generally, information exchange and transparency tends to be more valuable if:

(a) market participants can learn from each other and firms have different knowledge about different parts of the market;

(b) the information is important for decisions, which have a significant welfare effect; and

(c) there is no/limited danger of negative market power effects (collusion or predation).

2.5 However, the mere exchange of information does not, of itself, indicate collusion or predation. As the Federal Court identified in the Email Case (1980) it must be shown that the information exchange is likely to lead to produce such a result.
SECTION 7

IATA'S RESPONSE TO THE ACCC'S FLAWED 'LONGITUDINAL STUDY'

(DISCUSSION PAPER, PARAGRAPH 9)
SECTION 7

IATA'S RESPONSE TO THE ACCC'S FLAWED 'LONGITUDINAL STUDY' 

(DISCUSSION PAPER, PARAGRAPH 9)

1. Introduction

1.1 This Section contains IATA's response to the 'longitudinal study' undertaken by the ACCC, the results of which are set out in section 9 of the ACCC Discussion Paper.

1.2 In this Section, IATA:

- rejects categorically the conclusions reached by the ACCC, as the data used is not only incorrect in respect of IATA fares, the market fare information is incomplete and impossible to verify. The use of incorrect IATA fares is of particular concern given that IATA had provided to the ACCC, at their request, the correct data;

- replicates the graphs prepared by the ACCC for first and business class fares on the Sydney-London route and for business class fares on the Sydney-Los Angeles route, using correct IATA fare data and market fare data for additional airlines from the same source used by the ACCC. Using the same methodology, IATA has also produced a graph for first class fares on the Sydney-Los Angeles route;

- provides a comparison of the real and nominal IATA fares for first and business class fares on both the Sydney-London and Sydney-Los Angeles routes;

- comments on the graphs prepared by the ACCC for economy fares on both the Sydney-London and Sydney-Los Angeles routes, given that the data is not sufficiently explained to allow meaningful analysis to be undertaken; and

- provides the results of a simple Granger causality test on the Agent Support Manual data used by the ACCC but with the correct IATA fare data.

2. IATA serious concerns about the data

2.1 IATA has tested the ACCC's work on the assumption that the net fares shown in the Agents Support Manual are accurate but without admission that the assumption is correct. There are three primary reasons for this reservation. They are as follows:

- IATA has attempted to obtain from the airlines accurate details of their market fares, on a daily basis, for the period from mid 1994 to mid 2001 to check the accuracy of the Agent Support Manual. Information that old is simply not available. IATA has therefore not been able to independently verify the data with the airlines;

- as the information in the Agent Support Manual concerning IATA fares is incorrect this lends weight to the likelihood that other data in the Agent Support Manual may also be incorrect;
• the information which IATA has been able to access from the Agent Support Manual sheets is incomplete in a number of respects, including:
  • a lack of data in relation to economy fares required to determine whether the market fares chosen for comparison with the IATA fares are suitable; and
  • there are significant gaps in the data.

2.2 There are many examples of blank spaces in the data sheets. Sometimes cells are completely blank, while at other times there is a ‘–’ entry. There are also missing weeks, where the data sheet for particular weeks was entirely missing. Blank and ‘–’ entries might mean different things. For example, see London return, 29 March 2001. Air China is shown as offering some economy fares, but not others, while Korean Airlines is shown as offering no economy fares but does offer business, with the empty cells containing ‘–’. The interpretation of these entries is unclear, and this could mean that the analysis fails to take into account important data.

2.3 The data is, of course, quite old. This presents two difficulties. First, it is not possible to verify the data and secondly, analysis of what might or might not have occurred with fares in the period 1994 to 2001 is unlikely, in the context of the international aviation market, to say anything of significance about market behaviour from 2005 and beyond. It is an accepted fact that the market is extremely dynamic and moves very quickly.

2.4 The Agent Support Manual data provides wholesale pricing data that for most routes covers multiple airports. While the routes covered by fares quoted vary between routes and operators as to the points of origin included, the major airports regularly included are Sydney, Melbourne, Brisbane, Adelaide and Canberra. The IATA fares for the routes also generally cover these points of origin. From this perspective the wholesale carrier fares can be considered as covering South Eastern areas of Australia generally only.

2.5 Although the prices in the Agent Support Manual are intended to be indicative of wholesale fares available in the market, it is likely that individual travel agents have further discounts available to them. If this was the case, then the wholesale fares analysed will understate the volatility of actual wholesale fares.

2.6 The Agent Support Manual has rows headed COM% which appear to deal with commission arrangements. The row either has a number in it, or ‘NET’. Where the entry in that row is ‘NET’ it is assumed that the amount shown was the amount payable by the agent, but that has not been verified. Where the entry is a specific percentage amount, then it is assumed that the agent had to subtract that percentage from the fare shown to calculate the amount payable by the agent, but that has also not been verified. It is therefore unclear whether, in interpreting the data, the raw figures should be used, or a discount applied to obtain wholesale fares to the agent on a comparable basis. There are, however, very few examples after 1999 of airline fares being listed on a basis other than ‘NET’.

2.7 Finally, in relation to data, a comment should be made on the fare shown as the IATA fare in the Agents Support Manual. IATA has been unable to determine what that fare represents. It may be a fare for a specific carrier but IATA declines to speculate on it. The fare has been included in the figures set out below but without any admission by IATA that the fare has any relevance to the exercise.
3. **ACCC use of the Agents Support Manual data**

3.1 The ACCC Discussion Paper has not made full use of all airline data available in the Airline Support Manual. The reason for excluding competitors on the routes selected is not clear, given that they all offered fares in Australia on the relevant routes.

3.2 For the Sydney-London route the ACCC only incorporated Qantas/BA, Cathay Pacific and Singapore Airlines for all fare categories. By contrast, although not always covering the whole period under consideration, the Agents Support Manual provided data for a large number of airlines including Air France, Alitalia, All Nippon Airways, Emirates, EVA Air, Garuda, Gulf Air, JAL, KLM, Korean Airways, Lauda Air, Lufthansa, Malaysia Airlines, Olympic Airways, Philippine Airlines and Royal Brunei Airlines (for economy fares); Air France, Alitalia, All Nippon Airways, Emirates, EVA Air, Garuda, Gulf Air, JAL, KLM, Korean Airways, Lauda Air, Lufthansa, Malaysia Airlines, Olympic Airways, Philippine Airlines and Royal Brunei Airlines (for business class fares); Air France, Alitalia, All Nippon Airways, Emirates, Gulf Air, JAL, Korean Airways, Malaysia Airlines, Philippine Airlines and Royal Brunei Airlines (for first class fares).

3.3 For the Sydney-Los Angeles route the ACCC only considered Qantas, Air New Zealand and United Airlines for all fare categories. By contrast, although not always covering the whole period under consideration, the Agents Support Manual also provided data for a large number of airlines including Air Canada, Air Pacific, American Airlines, Ansett, Canadian Airlines and Canada 3000 (for discount economy superpac fares); Air Canada, Air China, All Nippon Airways, American Airlines, Asiana Airlines, Canadian Airlines, Cathay Pacific, EVA Air, JAL, Korean Air, Malaysia Airlines, Mandarin Airlines, Singapore Airlines and Thai (for excursion fares); All Nippon Airways, American Airlines, Canadian Airlines, Cathay Pacific, EVA Airways, Garuda, JAL, Malaysia Airlines, Mandarin Airlines, Singapore Airlines and Thai (for business class fares).

3.4 Some errors have been noted in the ACCC's data transcription. For instance, with the Sydney - London route data, in early February 1995 the Singapore Airlines P2/F2 fare was $6299 (and not $6674); in July and August 2000 the Cathay Pacific P2/F2 fare was $9255 (and not $8530); in early May 2000 the Qantas/BA J2 fare was $6781 (and not $5895) and in early June 2001 the Qantas/BA discount economy fare for departure in late June 2001 was $2200 (and not $1900).

4. **The ACCC hypothesis - general comments**

4.1 The primary concern expressed in the ACCC Discussion Paper is that collusion may have occurred between carriers *facilitated* by the IATA system: see paragraph 9.21. If collusion is the central concern, then analysis of relevant data might show one of the following outcomes that provide guidance about whether or not such concerns could be justified:

- airline fares moving together and at same time as IATA fares;
- airline fares moving together but not in synchronisation with IATA fares;
• an individual airline's fares tracking the IATA fare, but other airline fares not moving with those fares; or

• airline fares not moving together.

4.2 Observations of airline fares moving together and in synchronisation with IATA fares might, for example, support a view that the IATA fare is being used as a ‘leader’ fare that airlines then mimic. However, such an observation would also be consistent with a competitive market where airlines match each others' price changes closely, and where the IATA fare was driven by changes in market fares and not vice versa. In that regard IATA points out that each airline's fares are transparently available, in real time, through the global distribution systems (GDS).

4.3 Observations of airline fares moving together, but not in synchronisation with IATA fares, would not provide evidence that the IATA system was interfering with the normal competitive process, unless it could be shown that the airline movements were related to some externality affecting the result.

4.4 Observations of fares of an individual airline tracking IATA fares would also be inconsistent with the ACCC Discussion Paper's collusion hypothesis because other airlines are not, in this observation, moving their fares in tandem.

4.5 Finally, observations of airline fares not moving together over time would present no concerns about possible collusion facilitated by the IATA system.

5. Price trends and changes in service levels

5.1 An important issue related to interpreting changes in airline fares over time is to consider the overall trends in costs and fares that might be expected, and the extent to which these trends might be expected to hold over all fare classes. In particular, should it be expected that all fare class prices will trend in the same direction, or might they reasonably be expected to behave in different ways?

5.2 It might be suggested that, over the long term average fares should be falling, given increased competition over the past 20 years and the significant efficiency improvements in the international airline industry. While it would be understandable if an external observer expected a pattern of price reductions to apply to all fare classes, it is not necessarily the case that the observation of falling costs and increasing competition will lead to prices for all fare classes falling. Two significant reasons why price falls might not be observed in some classes include the implications of demand based pricing and changing service levels.

5.3 Demand based (Ramsey) pricing is a well recognised and efficient pricing method in industries such as the international aviation industry. The approach to it and implications of it for pricing airline products over time are set out in Section 5 of this submission.

5.4 There have also been service improvements, particularly in business and first class, over the past 20 years as airlines have increased service levels. This has included the introduction of facilities such as sleeper seats, better seating, more space in first and business class, interactive video, movies on demand, computer power outlets and other facilities.

5.5 While it might reasonably be expected that prices would have fallen in some areas of the market (especially in real terms), it should not be expected that prices for all fare
classes would following the same broad price trend. The increases in the quality of service of particular classes of travel implies that quality adjustments would need to be made to prices in order to compare like with like over time. Furthermore, even if such a quality adjustment were made, changes in relative demand elasticities may have resulted in different price trends in different fare classes. It is also possible to observe all fares rising but, if an increasing percentage of fares are sold at the lower fare levels, the average fare decreasing.

6. **Sydney - London route**

6.1 Figure 1 is the reworked Figure 9.1 in the ACCC Discussion Paper. In preparing this diagram IATA has included the correct IATA fares and added fares from the Agents Support Manual for other airlines active on the route. The fare incorrectly recorded in the ACCC Discussion Paper as the IATA fare has been included for reference, coded 'ASM'.

![Figure 1](image)

**Figure 1**

*First class return fares Sydney-London-Sydney (ACCC Figure 9.1)*

6.2 As outlined above, the ACCC’s hypothesis is that the IATA system facilitates some form of airline collusion. A minimum condition for the data to be at least consistent with such a concern is evidence of airline fares moving in unison. Figure 1 demonstrates no significant evidence of coordinated behaviour. Indeed, in general airline fares appear to behave relatively independently. In the limited number of cases where some airlines have moved together, other airlines have not moved in unison. Overall, this data does not support an hypothesis that collusion has been an issue, whether driven by IATA or any other factor.

6.3 Figure 1 does not support the ACCC hypothesis that collusion may have occurred between airlines on this route facilitated by the IATA system.

6.4 Figure 2 is the reworked Figure 9.2 in the ACCC Discussion Paper. In preparing this diagram IATA has included the correct IATA fares and added fares from the Agents
Support Manual for other airlines active on the route. The fare incorrectly recorded in the ACCC Discussion Paper as the IATA fare has been included for reference, as an 'ASM' fare.

**Figure 2**

**Business class return fares Sydney-London-Sydney (ACCC Figure 9.2)**

6.5 The comments above relating to first class fares also apply to business class. Figure 2 does not support the ACCC hypothesis that collusion may have occurred between airlines on this route facilitated by the IATA system.

6.6 To the extent that the ability to charge a higher price indicates the strength of an airline's position on the route, the pricing of Qantas/BA, Cathay and Singapore Airlines – the three airlines analysed by the ACCC – supports a view that these airlines were the leaders in business and first class travel between Australia and London in the period under consideration. The entry of Emirates towards the end of the period, offering significantly lower prices (competitive with Thai and Malaysia) than the apparent market leaders, is also noteworthy.

6.7 Qantas/BA appears to have had a strong market position in first and business class, and appear to have been able to sustain a premium until 1999, when the advantage appears to have dissipated.
7. Sydney-Los Angeles-Sydney route

7.1 The ACCC Discussion Paper did not include an analysis of first class fares on the Sydney-Los Angeles route. Figure 3 provides a comparison of those fares for the period 18 August 1994 to 18 May 2001. In preparing this diagram IATA has included the correct IATA fares and has used the Agents Support Manual as the source of the market fares. For consistency with the other diagrams in this section, the fare incorrectly regarded in the ACCC Discussion Paper as the IATA fare has been included for reference, as the 'ASM' fare.

Figure 3
First class return fares Sydney-Los Angeles-Sydney

7.2 The data for this route is patchy, especially for the earlier periods, but the diagram indicates that United and Qantas match each other closely in first class, whereas Air New Zealand was generally a little cheaper. The data suggests that all three operators are relatively close competitors.

7.3 There is no close relationship between airline and IATA fares – particularly towards the end of the period. Figure 3 does not support the ACCC hypothesis that collusion may have occurred between airlines on this route facilitated by the IATA system.

7.4 Figure 4 is the reworked Figure 9.5 in the ACCC Discussion Paper. In preparing this diagram IATA has included the correct IATA fares and added fares from the Agents Support Manual for other airlines active on the route. The fare incorrectly recorded in the ACCC Discussion Paper as the IATA fare has been included for reference, as an 'ASM' fare.
Figure 4
Business class return fares Sydney-Los Angeles-Sydney (ACCC Figure 9.5)

7.5 The comments above relating to first class fares on this route also apply to business class. The data for this route is patchy, especially for the earlier periods, but the diagram indicates that United and Qantas match each other closely in business class, whereas Air New Zealand was generally a little cheaper. The data suggests that all three operators are relatively close competitors.

7.6 There is no close relationship between airline and IATA fares – particularly towards the end the period. Figure 4 does not support the ACCC hypothesis that collusion may have occurred between airlines on this route facilitated by the IATA system.

8. Real prices v nominal prices

8.1 The prices used in the above figures are nominal prices rather than real prices (*ie* adjusted for changes in the consumer price index).

8.2 Figures 5-8 show the IATA fares for the relevant period in nominal terms and real terms. The consumer price index (CPI) series was used to adjust for inflation, with 1989-90 as the base year as this is the same year used by ABS statistics.
Figure 5
First class return fares Sydney-London-Sydney
Real and nominal

Figure 6
Business class return fares Sydney-London-Sydney
Real and nominal

Figure 7
First class return fares Sydney-Los Angeles-Sydney
Real and nominal
8.3 As these figures show, while IATA fares may have risen in nominal terms, they have not always risen in real terms. In fact, on occasions they have reduced in real terms. Of course, the diagrams do not show the impact of either changes in operating costs or the cost of service improvements mentioned above, which would have to be factored into any analysis to determine whether or not any demonstrated increases in IATA fares in real terms reflect increases in costs.

9. Economy fares data

9.1 Although the ACCC Discussion Paper undertook an analysis of economy fares on the two routes under consideration, the data available from the Agents Support Manual sheets is insufficient to undertake that exercise properly. The range of fares reported in economy class, the absence of fare conditions relating to those fares and gaps in the data would render analysis based on the data meaningless without significantly more information.

9.2 In addition, any meaningful observation of economy class fares would need to be done on a weekly basis given that airlines are putting net economy fares on sale, proactively or reactively, on a daily basis: see Section 8 of this submission. IATA notes that the ACCC Discussion Paper includes economy class fare graphs prepared on an annual basis. Of course, when data is annualised it can present a highly inaccurate picture, especially in dynamic industries where price changes are a daily occurrence.

9.3 The ACCC chose late June as the departure date and considered fares available for purchase in early February and early June. The reason for choosing these dates is not clear. Nor is there any information in the ACCC Discussion Paper supporting the proposition that the resulting data is representative of the position throughout the year. It is well known that economy class fares are constantly changing. Clearly, any other combination of purchase/departure dates could have been chosen and may have produced a different result. In addition, there is a question whether the market fares used are actually comparable with the IATA fares.

9.4 With those serious reservations in mind, IATA sets out below two economy class graphs it has prepared using the market fares data from the same source used by the ACCC, but with the correct IATA fares. They do not include other airlines active on the routes. Figure 9 is the reworked figure 9.3 in the ACCC Discussion Paper, and
Figure 10 is the reworked ACCC Discussion Paper Figure 9.6. Given the problems with the data, the utility of any of this information is highly dubious.

**Figure 9**
Economy class return fares Sydney-London, four months before departure on 30 June (ACCC Figure 9.3)

**Figure 10**
Economy class return fares Sydney-Los Angeles, Superpac four months before departure on 30 June (ACCC Figure 9.6)

9.5 Neither Figure 9 nor Figure 10 supports the ACCC hypothesis that collusion may have occurred between airlines on this route facilitated by the IATA system, but as noted above, the utility of these diagrams is highly dubious.

10. **ACCC's choice of routes - are they representative?**

10.1 The ACCC Discussion Paper selects the Sydney-London-Sydney route and the Sydney-Los Angeles-Sydney route for the purposes of examining 'the broader competition impact of tariff coordination': paragraph 9.3. There is no apparent consideration given in the paper to the question whether these routes are appropriately representative of routes generally, especially as the IATA Tariff Coordination system is a global system.
IATA's view is that these routes are not representative and that the conclusions apparently reached in the ACCC Discussion Paper are reflective of that fact and of a misunderstanding of the nature and effect of the IATA product.

The Australia to London route is a special route because it is ultra long haul. Because an ultra long haul route can present a multitude of attractive stopovers opportunities for travellers (for Australia to London possible stopovers include, for example, Jakarta, Singapore, Bangkok, Delhi, Cairo, Rome and Brussels), prorate shares for flight segments on those routes could end up being unreasonably low. It is therefore not surprising on ultra long haul routes to observe IATA fares used for computing prorates which are very high compared to market fares for direct point-to-point service.

The IATA fare is a product which allows unlimited stopovers and this must be taken into consideration when comparing IATA fares to market fares.

Given that the IATA fare is used for computing prorate shares on interline tickets, that fare must be one which would result in prorate computations which are acceptable to any participating airline that could provide a flight segment on the route. A flight segment added to an itinerary which is ultra long haul may require a fare for the ultra long haul route which is considerably higher than market fares.

This point is best illustrated by the examples in Appendix 1 to this submission. In the first of these, the airline flying from Geneva to Brussels will receive a prorate share of $137 versus its lowest online fare between these cities of approximately $180.

Air fares are generally not proportional to distance, as underlying airline route economics show lower cost per seat kilometre as the length of a flight increases. This phenomena is sometimes referred to as the ‘fare taper’.

Applying a proportional prorate to a fare on an ultra long haul route would likely result in prorate shares on short haul flight segments being inadequate. For the IATA interline system to work it is necessary to ensure a balance between the through fare and the fare for each segment so that neither is unsustainable. The result will necessarily be sector prorate shares which are lower than applicable sector fares and, especially where the route is a thick long haul route, through fares that tend to be higher than prevailing point-to-point market fares.

Granger causality

IATA has undertaken a simple Granger Causality test on the Agents Support Manual data used in the ACCC Discussion Paper in relation to first and business class fares on the Sydney-London-Sydney route and the Sydney-Los Angeles-Sydney route, but with the correct IATA fares. Because monthly data could obscure causality due to changes in fares within a month, a weekly data set was developed.

Granger causality is a technique for determining whether one data time-series is useful in forecasting another. Ordinarily, regressions reflect "mere" correlations, but Clive Granger, who won a Nobel Prize in Economics for his work in analysing time series data, argued that there is an interpretation of a set of tests which reveals something about causality.

A short technical description of the test is that a time series \( X \) is said to \textit{Granger-cause} a time series \( Y \) if it can be shown, usually through a series of statistical F-tests on lagged values of \( X \) (and with lagged values of \( Y \) also known), that those \( X \) values provide statistically significant information on future values of \( Y \). The test works by first doing
a regression of \( Y \) on lagged values of \( Y \) and lagged values of \( X \). In this, the restriction is tested whether all the lagged values of \( X \) can be dropped from the regression. These steps are then repeated for the reverse relationship. The researcher is often looking for a clear story, such as \( Y \) Granger-causes \( X \), but not the other way around. In the real world, difficult results are often found such as neither time series Granger-causes the other, or that each Granger-causes the other.

11.4 The data set utilised for the Granger causality test in this case comprised weekly fare data for airlines providing service on the Sydney-London and Sydney-Los Angeles routes and the respective IATA fares for the period of May 1994 to July 2001. Two limitations with the data had to be addressed before commencing the regression analysis. The first issue involves the fact certain weeks of historical data were missing or not available, and the second issue relates to certain airlines not operating a route or having no data for a considerable period of time.

11.5 The first issue was dealt with through the interpolation of existing data (and also by running the test excluding observations with missing data or missing lagged data) and the second by restricting the sample of airlines. Ideally, all airlines would be included in the regression models, but given the gaps in available data this would cause the number of observations to drop significantly. For this reason, some airlines were omitted from the sample and accordingly:

- for Sydney - London - Sydney six airlines offering services were selected; and
- for Sydney - Los Angeles - Sydney three airlines offering services were included.

11.6 As noted at paragraph 11.3 above, the purpose of utilising Granger causality in this case is to determine whether there is a possibility that the IATA fares may have impacted on individual airline fares. To test whether this relationship exists, separate regressions are run with each airline as the dependent variable and the independent variables being the lagged values of airline fares and the IATA fare. The following equation provides an example of a regression model used to perform a Granger causality test.

\[
BAt = b_0 + b_1*IATAt-1 + b_2*BAt-1 + b_3*Cathayt-1 + b_4*Malaysiat-1 + b_5*Qantasct-1 + b_6*Singapore + b_7*Thait-1 + e_t
\]

11.7 From this example equation, it can be determined whether IATA fares influence British Airways fares (British Airways or 'BA' is the dependent variable). The coefficient that explains this relationship is \( b_1 \), which represents the change in BA fares that is caused by a change in the IATA fare. If the IATA fare has a significant impact on the BA fare, one would expect a positive sign on the \( b_1 \) coefficient, and a significant t-statistic. (Note that when testing with one lag, the F-test simplifies to a t-test. Tests with multiple lags were also considered with similar results.)

11.8 After an estimation of a coefficient, the t-statistic for that coefficient is the ratio of the coefficient to its standard error. That can be tested against a t distribution to determine how probable it is that the true value of the coefficient is really zero. A high t-statistic indicates a low probability that the true value of the coefficient is actually zero, thus signifying the coefficient estimate is statistically significant. The critical value of a t-distribution associated with a 90% level of confidence is 1.645 (with degrees of freedom>120), and the 95% level of confidence (the level most commonly used by economists) is associated with a t-statistic of 1.96.

11.9 Table 7A presents the results of a simple Granger causality test using t-statistics results for both first class and business class fares on the Australia to London route for the
following airlines: British Airways, Cathay Pacific, Korean Air, Malaysia Airlines, Qantas, Singapore Airlines and Thai Airways. The airline in the far-left column of the table is the dependent variable of a regression of the form of the equation set out at paragraph 11.6 above, and the coefficients listed are those associated with the lagged IATA term (b₁).

Table 7A
Simple Granger causality tests, Australia – London

<table>
<thead>
<tr>
<th>Airline</th>
<th>First class</th>
<th>Business class</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Coefficient</td>
<td>Coefficient</td>
</tr>
<tr>
<td></td>
<td>(std. error)</td>
<td>(std. error)</td>
</tr>
<tr>
<td>-0.008 (0.025)</td>
<td>0.092 (0.033)</td>
<td>2.766</td>
</tr>
<tr>
<td>British Airways</td>
<td>-0.315</td>
<td></td>
</tr>
<tr>
<td>Cathay Pacific</td>
<td>0.009 (0.017)</td>
<td>0.005 (0.030)</td>
</tr>
<tr>
<td>0.546</td>
<td>0.179</td>
<td></td>
</tr>
<tr>
<td>Korean Air</td>
<td>Not included for first class model due to lack of observations.</td>
<td></td>
</tr>
<tr>
<td>Malaysia Airlines</td>
<td>0.07 (0.027)</td>
<td>0.007 (0.066)</td>
</tr>
<tr>
<td>-0.034 (0.019)</td>
<td>0.019 (0.026)</td>
<td>0.717</td>
</tr>
<tr>
<td>Qantas</td>
<td>-0.548</td>
<td>0.892</td>
</tr>
<tr>
<td>Singapore Airlines</td>
<td>-1.378</td>
<td>2.090</td>
</tr>
<tr>
<td>Thai Airways</td>
<td>-0.074</td>
<td></td>
</tr>
<tr>
<td></td>
<td>-0.020 (0.028)</td>
<td></td>
</tr>
</tbody>
</table>

11.10 The data set utilised for the Australia to Los Angeles route includes three airlines: Air New Zealand, Qantas and United Airlines. The results associated with the simple Granger causality tests are listed in Table 7B:

Table 7B
Simple Granger causality tests, Australia – Los Angeles

<table>
<thead>
<tr>
<th>Airline</th>
<th>First class</th>
<th>Business class</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Coefficient</td>
<td>Coefficient</td>
</tr>
<tr>
<td></td>
<td>(std. error)</td>
<td>(std. error)</td>
</tr>
<tr>
<td>-0.277 (0.122)</td>
<td>-0.151 (0.078)</td>
<td>-1.944</td>
</tr>
<tr>
<td>Air New Zealand</td>
<td>-2.265</td>
<td></td>
</tr>
<tr>
<td>Qantas</td>
<td>-0.034 (0.018)</td>
<td>0.019 (0.023)</td>
</tr>
<tr>
<td></td>
<td>-1.922</td>
<td>0.841</td>
</tr>
<tr>
<td>United Airlines</td>
<td>0.038 (0.023)</td>
<td>0.042 (0.026)</td>
</tr>
<tr>
<td></td>
<td>1.655</td>
<td>1.628</td>
</tr>
</tbody>
</table>

11.11 If it were the case that increases in IATA fares caused or enabled market fares to also rise, one would expect to observe, from the tables, the following:

- there would be statistically significant and positive causality coefficients for a number of airlines on each route. However, the results do not show this. Only a few cases have more than one carrier with such results;

- the magnitude of the coefficients would be close to unity – that is a $1 increase in the IATA fare would result in roughly a $1 increase in the market fares. However,
the magnitudes are generally very small, such as a $1 increase in the IATA fare supporting only a $0.07 increase in market fares;

- there would be consistency in the results for both first class and business class for a given airline. This is not evident. There are few causality findings and most are inconsistent between the fare classes;

- there would be consistency in the results for a given airline on multiple routes. This is not evident in the tables; and

- the results for the Australian airline (the only carrier whose data was assessed on both of the routes), which carried a significant portion of the traffic on each route during this time period, would be consistent with causality. However, Qantas had no causality findings.

11.12 In summary, the results of a simple Granger causality test on the fare data used by the ACCC Discussion Paper, but with the correct IATA fares, do not support a finding of consistent causality of IATA fares to market fares in first class and business class.
SECTION 8

IATA'S RESPONSE TO THE ACCC'S DISCUSSION OF THE INCIDENCE OF INTERLINING

(DISCUSSION PAPER, PARAGRAPH 9)
SECTION 8

IATA'S RESPONSE TO THE ACCC'S DISCUSSION OF THE INCIDENCE OF INTERLINING

(DISCUSSION PAPER, PARAGRAPH 9)

1. Background

1.1 The ACCC Discussion Paper explicitly rejects data submitted by IATA directed at establishing the incidence of interlineable airline tickets sold in Australia for international travel. The paper states:

'The estimates provided by IATA are not consistent with submissions and comments made by other parties who all advise, for example, that the sale of IATA full Economy Y Class fares, far from representing at least 18% of all economy fares sold, is an extremely rare event. In light of these comments, IATA has indicated that it is consulting further on this issue and revisiting the methodology used to gather the data in IATA's submission.'\(^1\)

1.2 The IATA Tariff Coordinating Conferences and Interlining Submission dated 24 May 2004 ('IATA's original submission') made the following statements in relation to the incidence of interlineability based on data extracted from the BSP in Australia for the period 1 April 2003 to 31 March 2004:

'Based on the raw numbers, 21% of international tickets processed in the period were interlineable and that the incidence of Interlineable tickets was significantly higher in first class (61%) and business class (46%) than in economy class (18%).'\(^2\)

1.3 At a meeting between Commissioner King and IATA executives on 15 March 2005 IATA was asked to re-consider the data it had provided and agreed to do so. Since then IATA has continued to collate BSP data and has consulted widely with the airlines and others in order to clarify the position.

2. Where people fly

2.1 Before turning to the information available, from the BSP and airlines, on the actual incidence of the sale of tickets in Australia at IATA fares it is important to address an apparent misconception about the destinations to which people travel. The ACCC Discussion Paper appears to make an assumption that travel today is almost exclusively on point-to-point routes such as Sydney-London and Sydney-Los Angeles.

2.2 That assumption led to a further erroneous assumption that, as there are many airlines offering point-to-point services on those routes and other routes, the purchase of IATA fares and the need for IATA interlining is insignificant.

---

1 ACCC Discussion Paper paragraph 10.97
2 IATA's original submission paragraph 22.14
2.3 In fact the contrary is true. Although point-to-point services meet a need and provide benefits for those whose trips are limited to one destination only, not all destinations are accessible by point-to-point services and many passengers' needs cannot be met by point-to-point services on the thicker routes.

2.4 As the following table shows, passengers from Australia travel by air to countries all around the globe. Many of these places are not accessible on the one airline or with the one alliance. Those that are can involve very indirect routing, backtracking, long transit delays and inconvenient schedules.

Table 8A
Countries accessed from Australia through selected transit points

<table>
<thead>
<tr>
<th>Transit point (country of disembarkation)</th>
<th>No. of different final destination countries</th>
<th>Final destination countries include</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hong Kong</td>
<td>162</td>
<td>Belgium</td>
</tr>
<tr>
<td></td>
<td></td>
<td>India</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Israel</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ethiopia</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lithuania</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bermuda</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Congo</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Argentina</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Poland</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ghana</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Azerbaijan</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mauritania</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Syria</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Uruguay</td>
</tr>
<tr>
<td>Japan</td>
<td>136</td>
<td>Albania</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Chad</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Belarus</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Egypt</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dominican Republic</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Iceland</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Zimbabwe</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mongolia</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Iran</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Spain</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mexico</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Latvia</td>
</tr>
<tr>
<td>Singapore</td>
<td>202</td>
<td>Sudan</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Nigeria</td>
</tr>
<tr>
<td>Malaysia</td>
<td>160</td>
<td>Lebanon</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Swaziland</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Georgia</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Algeria</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Croatta</td>
</tr>
<tr>
<td></td>
<td></td>
<td>El Salvador</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Burundi</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Guam</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Senegal</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Moldova</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Seychelles</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Colombia</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Qatar</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Morocco</td>
</tr>
<tr>
<td>Korea</td>
<td>99</td>
<td>Bangladesh</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Brazil</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Norway</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Mauritius</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Finland</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Nicaragua</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sierra Leone</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Russian Federation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sri Lanka</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Papua New Guinea</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Liechtenstein</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lebanon</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bosnia-Herzegovina</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Kiribati</td>
</tr>
<tr>
<td>United States</td>
<td>172</td>
<td>Haiti</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Estonia</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Western Samoa</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Brazil</td>
</tr>
</tbody>
</table>
## Transit point (country of disembarkation) | No. of different final destination countries | Final destination countries include
---|---|---
| | | Peru
| | | Tajikistan
| | | Grenada
| | | Bahrain
| | | Suriname
| | | Paraguay
| | | Ukraine
| | | Kuwait
| | | Denmark
| | | Croatia

### Vietnam 

| | | 65 |
| | | Cuba
| | | Botswana
| | | Slovak Republic
| | | Luxembourg
| | | French Polynesia
| | | Macau
| | | Norway
| | | Mexico
| | | Brunei
| | | Greece
| | | Uzbekistan
| | | Chile
| | | Vanuatu
| | | United Arab Emirates

*Source: DIMIA Overseas Arrivals and Departures July 2004 to June 2005 (unpublished)*

### 3. Statements by airlines and others

#### 3.1 IATA notes that a number of airlines have filed statements with the ACCC dealing with this issue. They are summarised in the following table:

#### Table 8B

<table>
<thead>
<tr>
<th>Airline</th>
<th>Statement date</th>
<th>Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Singapore Airlines</td>
<td>29 March 2005</td>
<td>For the financial year April 2003 to March 2004, 10.7% of tickets for SIA flights from Australia incorporated fares agreed at IATA tariff conferences. The percentage breakdowns of interlineable IATA tickets sold by destination vary from 9.7% - 52.6% for first class, 11.7% - 27.9% for business class and 5.2% - 7.7% for economy class.</td>
</tr>
<tr>
<td>Qantas</td>
<td>27 October 2005</td>
<td>Analysis tends to show that the use of IATA fares on other routes is considerably higher than the 2% seen on JSA routes.</td>
</tr>
<tr>
<td>Air Vanuatu</td>
<td>4 January 2005</td>
<td>About 8% of Air Vanuatu’s feeder traffic comes through the IATA MITA.</td>
</tr>
<tr>
<td>KLM</td>
<td>21 December 2004</td>
<td>Approximately 20% of tickets from Australia to Europe would be issued at IATA fares.</td>
</tr>
<tr>
<td>American Express</td>
<td>25 November 2004</td>
<td>IATA fares would represent less than 15% of the tickets AMEX sells.</td>
</tr>
<tr>
<td>(ACCC record of interview)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### 3.2 Subsequently Cathay Pacific has advised IATA that across Cathay Pacific’s sales network, approximately 30% of sales are on published fares (*i.e* either IATA normal or special fares). Cathay Pacific has advised that this varies dramatically between markets.
3.3 With the exception of the Singapore Airlines and Qantas information, the balance of this information is the best estimate each airline has been able to make, but they are not based on analysis of any data. The Singapore Airlines data is the most current and comprehensive.

4. International data

4.1 Since IATA provided its original submission in May 2004 a number of airlines have provided data on the incidence of the sale of IATA fares either in Europe or globally. Although this data does not relate specifically to routes to or from Australia it provides some insight into the extent to which IATA fares are used internationally. Table 8C contains this information:

**Table 8C**

**IATA fares - international perspective**

<table>
<thead>
<tr>
<th>Airline</th>
<th>Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austrian Airlines</td>
<td>Without IATA interlining, Austrian Airlines could lose the revenue of 560,000 passengers at a total of €73 million.</td>
</tr>
<tr>
<td>British Airways (BA)</td>
<td>The most recent data produced by BA (for the year July 2003 - June 2004) shows that 8% of BA's customers travelling within the European Economic Area purchased the IATA fully flexible fare product rather than BA's cheaper flexible fare (which restricts travel to BA services only). Fifteen per cent of these passengers then went on to use their ticket for travel on another airline.</td>
</tr>
<tr>
<td>Estonian Air</td>
<td>Interline travel contributes approximately 50% to Estonian Air flights. Revoking the current system could be fatal to Estonian Air as much of its traffic at certain destinations (up to 75-80%) is a result of the interlining system.</td>
</tr>
<tr>
<td>Finnair</td>
<td>In 2003, there were 1240 international destinations with passenger demand from Finland. Of these, Finnair and other airlines cover approximately 50 with direct services which represents only 4% of the total demanded destinations.</td>
</tr>
<tr>
<td>Lufthansa</td>
<td>Within the European Economic Area, 10.9% of Lufthansa's revenue is based on IATA fares (excluding domestic traffic); for traffic between the European Economic Area and intercontinental destinations they account for 11.7%.</td>
</tr>
</tbody>
</table>

*Source:* Airline responses to DG Comp consultation paper concerning the revision and possible prorogation of Commission Regulation 1617/93 dated 30 June 2004

5. IATA data - tickets issued in Australia

5.1 IATA has concluded that it is not possible to be definitive about the number of interlineable tickets sold in Australia each year, but that the most reliable data is that extracted from the BSP. This is because:

- most international airlines tickets sold in Australia are settled through the BSP;
- the BSP in Australia handles ticket settlements between 39 of the 44 airlines currently operating international air services from/to Australia;
• the BSP information has been extracted for over two years - 1 April 2003 to 30 June 2005; and

• most airlines operating international services to/from Australia are not able to extract from their systems actual data on this issue. The only airline that has been able to do so is Singapore Airlines. Others have provided estimates which are not based on any empirical data.

5.2 In undertaking the review discussed in the meeting with Commissioner King, IATA has extracted from the BSP two data sets representing the likely highest and lowest level of sales in Australia of tickets at IATA normal fares. The first data set, contained in Table 8D below, is an update of the data set contained in IATA's original submission. It represents the likely highest level of IATA normal fare interlineable tickets sold in Australia.

Table 8D
Interlineable tickets sold in Australia – IATA normal fares - first data set 3

<table>
<thead>
<tr>
<th></th>
<th>First class</th>
<th>Business class</th>
<th>Economy class</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full fare code tickets (P, F, J, C &amp; Y)</td>
<td>70.3%</td>
<td>50.7%</td>
<td>18.7%</td>
<td>22.3%</td>
</tr>
</tbody>
</table>

5.3 The second data set, contained in Table 8E below, represents the lowest possible level of IATA normal fare interlineable tickets sold in Australia, but this is unlikely to reflect even the most conservative position.

Table 8E
Interlineable tickets sold in Australia – IATA normal fares - second data set 4

<table>
<thead>
<tr>
<th></th>
<th>First class</th>
<th>Business class</th>
<th>Economy class</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full fare code tickets (P, F, J, C &amp; Y) with no endorsement</td>
<td>8.6%</td>
<td>9.3%</td>
<td>1.5%</td>
<td>2.3%</td>
</tr>
</tbody>
</table>

5.4 The difference between the two data sets is that the first contains all tickets processed through the BSP in Australia designated for travel in P, F, J and Y class in accordance with Resolution 728. The second data set is a subset of the first, containing only those tickets designated for travel in P, F, J and Y class which do not have an endorsement in the endorsement box.

5.5 Neither data set includes fares designated as IATA special fares, even though those fares are interlineable.

5.6 The first data set may overstate the position for the following reasons:

• some agents may have used the incorrect fare class, although this is likely to be an unusual occurrence; and

3 Data for period 1 April 2003 to 30 June 2005.
4 See footnote 6 of Section 8
some airlines may allow use of the P, F, J and Y class designators for other than IATA interlineable tickets, although almost all of the airlines with whom IATA has surveyed have informed IATA that they use other designators for tickets that are not fully interlineable.

5.7 The second data set is likely to be a significant understatement of the position for the following reasons:

- for internal accounting reasons consolidators include an endorsement on all tickets;
- combination of an IATA fare and another fare on the same ticket will likely contain an entry in the endorsement box;
- the endorsement box is used for other entries including, for example “Agent/Invoice” when a travel agency has extended credit to the purchaser; and
- some agents may have used the incorrect fare class, although this is likely to be an unusual occurrence.

6. Implications from data

6.1 Percentage measurements can hide the magnitude of the extent to which IATA interlineable tickets are sold in Australia. This can lead to an underestimation of the magnitude of the benefit which the IATA product provides.

6.2 If the percentages of IATA interlineable normal fare tickets sold in Australia contained in Tables 8D and 8E above are extrapolated to all passengers travelling out of Australia, in order to obtain the likely number of people doing so on an IATA normal fare interlineable tickets, the results are as follows:

<table>
<thead>
<tr>
<th>Percentage of tickets</th>
<th>No. of passengers</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.3%</td>
<td>226,707</td>
</tr>
<tr>
<td>22.3%</td>
<td>2,198,076</td>
</tr>
</tbody>
</table>

6.3 The relative importance of the figures shown in Table 8F can be demonstrated by comparison with the number of passengers coming to Australia in 2003 from various countries as shown in Table 5.4 in the ACCC Discussion Paper. The result is:

- if only 2.5% of outbound passengers travel on IATA interlineable normal fare tickets that would be equivalent in numbers of passengers to all of the short  

---

5 Based on total 2004 outbound scheduled international air traffic from Australia:BTRE 'International Scheduled Air Transport 2004'
term visitors to Australia in 2003 from India, Thailand, France and Italy combined;

- if 5% of outbound passengers travel on IATA interlineable normal fare tickets then the Philippines, Indonesia and Canada would be added to the list;
- if 10% of outbound passengers travel on IATA interlineable normal fare tickets then Hong Kong, Germany and Singapore would be added to the list;
- if 15% of outbound passengers travel on IATA interlineable normal fare tickets then Korea and China would be added to the list; and
- if 20% of outbound passengers travel on IATA interlineable normal fare tickets then the United States and Malaysia would be added to the list.

6.4 Expanding on the analysis in paragraph 6.3, another method of assessing the magnitude is to compare the figures in Table 8F with the number of passengers carried from/to Australia by various international airlines. The following table shows the position.

Table 8G
Likely range of outbound passengers per annum from Australia travelling on IATA interlineable normal fare tickets compared with total airline passengers inbound and outbound

<table>
<thead>
<tr>
<th>Percentage</th>
<th>No. of passengers</th>
<th>Exceeds total passengers of each of</th>
</tr>
</thead>
<tbody>
<tr>
<td>22.3%</td>
<td>2,198,076</td>
<td>Airlines above plus Air New Zealand, Australian Airlines, British Airways, Cathay Pacific Airways, Emirates, Freedom Air International, Garuda Indonesia, Japan Airlines, Korean Air, Malaysia Airlines, Pacific Blue, Singapore Airlines, Thai International and United Airlines</td>
</tr>
</tbody>
</table>

6.5 Table 8G does not, of course, disclose the full picture because the total number of passengers used for the airlines listed include passengers who purchased their tickets anywhere in the world, whereas the interlineability data only deals with passengers who bought tickets in Australia.

6.6 There is no data available on the incidence of interlineable tickets sold in other countries for travel to Australia. The only available data is that set out in paragraph 3.1 above, plus the Heathrow information set out in IATA’s original submission. It has not been possible to extract the relevant information from the 79 BSPs that operate around the

---

6 Based on total 2004 inbound and outbound scheduled international air traffic from Australia: BTRE 'International Scheduled Air Transport 2004'
world. However, IATA believes that the incidence would be higher than in Table 8E and that, for some countries, could be higher than Table 8D.

6.7 Extrapolating from Tables 8D and 8E, the likely number of people who undertake international air travel to and from Australia each year and who do so on an IATA interlineable normal fare ticket purchased anywhere in the world, would be as follows:

<table>
<thead>
<tr>
<th>Percentage of tickets</th>
<th>No. of passengers</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.3%</td>
<td>454,000</td>
</tr>
<tr>
<td>22.3%</td>
<td>4,400,000</td>
</tr>
</tbody>
</table>

7. Conclusion

7.1 While there is not sufficient data available to form a concluded view on the matter, whether the overly conservative 2.3% figure or some higher figure is selected, on any measure there is a significant number of people who travel each year on IATA fares to and from Australia. All available evidence supports the view that, contrary to assertions in the ACCC Discussion Paper, IATA fares are used, directly or indirectly, by a large number of members of the Australian public and by overseas people who come to Australia and make a positive contribution to the Australian economy. IATA’s conservative estimate is that every year more than 10% of passengers from/to Australia, (more than 2 million passengers8) use IATA fares.

---

7 Based on total 2004 inbound and outbound scheduled international air traffic to/from Australia: BTRE 'International Scheduled Air Transport 2004'
8 Based on total 2004 inbound and outbound scheduled international air traffic to/from Australia: BTRE 'International Scheduled Air Transport 2004'
### Example Stopover Itineraries Permitted on the IATA Fare

#### A. Sydney - London

Maximum permitted mileage via Eastern Hemisphere (EH): 13220 miles  
Maximum permitted mileage via Atlantic-Pacific (AP): 15007 miles  
Maximum permitted mileage via Trans-Siberia (TS): 13294 miles

<table>
<thead>
<tr>
<th>Example Itinerary No.1 (EH)</th>
<th>From</th>
<th>To</th>
<th>Distance (miles)</th>
<th>Prorate factor</th>
<th>Share</th>
<th>Prorate Share</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Sydney</td>
<td>Jakarta</td>
<td>3408</td>
<td>3776</td>
<td>17.18%</td>
<td>$1,446</td>
<td>$1,123</td>
</tr>
<tr>
<td></td>
<td>Jakarta</td>
<td>Singapore</td>
<td>557</td>
<td>995</td>
<td>4.53%</td>
<td>$381</td>
<td>$296</td>
</tr>
<tr>
<td></td>
<td>Singapore</td>
<td>Kuala Lumpur</td>
<td>197</td>
<td>482</td>
<td>2.19%</td>
<td>$185</td>
<td>$143</td>
</tr>
<tr>
<td></td>
<td>Kuala Lumpur</td>
<td>Bangkok</td>
<td>762</td>
<td>1236</td>
<td>5.62%</td>
<td>$473</td>
<td>$367</td>
</tr>
<tr>
<td></td>
<td>Bangkok</td>
<td>Columbo</td>
<td>1482</td>
<td>2045</td>
<td>9.30%</td>
<td>$783</td>
<td>$608</td>
</tr>
<tr>
<td></td>
<td>Columbo</td>
<td>Delhi</td>
<td>1489</td>
<td>2052</td>
<td>9.34%</td>
<td>$786</td>
<td>$610</td>
</tr>
<tr>
<td></td>
<td>Delhi</td>
<td>Karachi</td>
<td>665</td>
<td>1133</td>
<td>5.16%</td>
<td>$434</td>
<td>$337</td>
</tr>
<tr>
<td></td>
<td>Karachi</td>
<td>Dubai</td>
<td>740</td>
<td>1394</td>
<td>6.34%</td>
<td>$534</td>
<td>$414</td>
</tr>
<tr>
<td></td>
<td>Dubai</td>
<td>Bahrain</td>
<td>301</td>
<td>802</td>
<td>3.65%</td>
<td>$307</td>
<td>$238</td>
</tr>
<tr>
<td></td>
<td>Bahrain</td>
<td>Kuwait</td>
<td>262</td>
<td>724</td>
<td>3.29%</td>
<td>$277</td>
<td>$215</td>
</tr>
<tr>
<td></td>
<td>Kuwait</td>
<td>Cairo</td>
<td>997</td>
<td>1936</td>
<td>8.81%</td>
<td>$742</td>
<td>$576</td>
</tr>
<tr>
<td></td>
<td>Cairo</td>
<td>Athens</td>
<td>688</td>
<td>1376</td>
<td>6.26%</td>
<td>$527</td>
<td>$409</td>
</tr>
<tr>
<td></td>
<td>Athens</td>
<td>Rome</td>
<td>667</td>
<td>1642</td>
<td>6.61%</td>
<td>$556</td>
<td>$432</td>
</tr>
<tr>
<td></td>
<td>Rome</td>
<td>Geneva</td>
<td>439</td>
<td>1579</td>
<td>4.91%</td>
<td>$413</td>
<td>$321</td>
</tr>
<tr>
<td></td>
<td>Geneva</td>
<td>Brussels</td>
<td>332</td>
<td>878</td>
<td>3.99%</td>
<td>$336</td>
<td>$261</td>
</tr>
<tr>
<td></td>
<td>Brussels</td>
<td>London</td>
<td>206</td>
<td>618</td>
<td>2.81%</td>
<td>$237</td>
<td>$184</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>13192</strong></td>
<td><strong>21978</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Example Itinerary No.2 (EH)</th>
<th>From</th>
<th>To</th>
<th>Distance (miles)</th>
<th>Prorate factor</th>
<th>Share</th>
<th>Prorate Share</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Sydney</td>
<td>Mauritius</td>
<td>5621</td>
<td>5875</td>
<td>31.89%</td>
<td>$2,685</td>
<td>$2,084</td>
</tr>
<tr>
<td></td>
<td>Mauritius</td>
<td>Johannesburg</td>
<td>1905</td>
<td>3286</td>
<td>17.84%</td>
<td>$1,501</td>
<td>$1,165</td>
</tr>
<tr>
<td></td>
<td>Johannesburg</td>
<td>Harare</td>
<td>596</td>
<td>1396</td>
<td>7.58%</td>
<td>$638</td>
<td>$495</td>
</tr>
<tr>
<td></td>
<td>Harare</td>
<td>Lilongwe</td>
<td>324</td>
<td>891</td>
<td>4.84%</td>
<td>$407</td>
<td>$316</td>
</tr>
<tr>
<td></td>
<td>Lilongwe</td>
<td>Dar-es-salaam</td>
<td>617</td>
<td>1432</td>
<td>7.77%</td>
<td>$654</td>
<td>$508</td>
</tr>
<tr>
<td></td>
<td>Dar-es-salaam</td>
<td>London</td>
<td>4662</td>
<td>5544</td>
<td>30.09%</td>
<td>$2,533</td>
<td>$1,966</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>13725</strong></td>
<td><strong>18424</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>TPM reduction</strong></td>
<td><strong>518</strong></td>
</tr>
</tbody>
</table>
### Example itinerary no.3 (EH)

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Distance (miles)</th>
<th>Prorate factor</th>
<th>Share</th>
<th>Prorate share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney</td>
<td>Johannesburg</td>
<td>6842</td>
<td>7232</td>
<td>31.01%</td>
<td>$2,611 $2,026 $1,510</td>
</tr>
<tr>
<td>Johannesburg</td>
<td>Douala</td>
<td>690</td>
<td>3927</td>
<td>16.84%</td>
<td>$1,417 $1,100 $820</td>
</tr>
<tr>
<td>Douala</td>
<td>Accra</td>
<td>2904</td>
<td>7986</td>
<td>34.24%</td>
<td>$2,882 $2,237 $1,667</td>
</tr>
<tr>
<td>Accra</td>
<td>London</td>
<td>3177</td>
<td>4180</td>
<td>17.92%</td>
<td>$1,509 $1,171 $873</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$8,418 $6,534 $4,869</td>
</tr>
<tr>
<td>TPM reduction</td>
<td></td>
<td></td>
<td></td>
<td>100.00%</td>
<td>$8,418 $6,534 $4,869</td>
</tr>
</tbody>
</table>

### Example itinerary no.4 (AP)

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Distance (miles)</th>
<th>Prorate factor</th>
<th>Share</th>
<th>Prorate share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney</td>
<td>Wellington</td>
<td>1398</td>
<td>1959</td>
<td>10.07%</td>
<td>$888 $690 $514</td>
</tr>
<tr>
<td>Wellington</td>
<td>Nadi</td>
<td>1637</td>
<td>2200</td>
<td>11.31%</td>
<td>$997 $774 $577</td>
</tr>
<tr>
<td>Nadi</td>
<td>Honolulu</td>
<td>3174</td>
<td>3768</td>
<td>19.37%</td>
<td>$1,708 $1,326 $988</td>
</tr>
<tr>
<td>Honolulu</td>
<td>Vancouver</td>
<td>2706</td>
<td>3525</td>
<td>18.12%</td>
<td>$1,598 $1,241 $925</td>
</tr>
<tr>
<td>Vancouver</td>
<td>New York</td>
<td>2433</td>
<td>3260</td>
<td>16.76%</td>
<td>$1,478 $1,148 $855</td>
</tr>
<tr>
<td>New York</td>
<td>Dublin</td>
<td>3176</td>
<td>3947</td>
<td>20.29%</td>
<td>$1,790 $1,389 $1,035</td>
</tr>
<tr>
<td>Dublin</td>
<td>London</td>
<td>288</td>
<td>791</td>
<td>4.07%</td>
<td>$359 $278 $208</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$8,819 $6,847 $5,105</td>
</tr>
</tbody>
</table>

### Example itinerary no.5 (TS)

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Distance (miles)</th>
<th>Prorate factor</th>
<th>Share</th>
<th>Prorate share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney</td>
<td>Tokyo</td>
<td>4859</td>
<td>4903</td>
<td>25.89%</td>
<td>$2,283 $1,773 $1,321</td>
</tr>
<tr>
<td>Tokyo</td>
<td>Seoul</td>
<td>759</td>
<td>1249</td>
<td>6.59%</td>
<td>$582 $452 $336</td>
</tr>
<tr>
<td>Seoul</td>
<td>Moscow</td>
<td>4096</td>
<td>4924</td>
<td>26.00%</td>
<td>$2,293 $1,780 $1,327</td>
</tr>
<tr>
<td>Moscow</td>
<td>Helsinki</td>
<td>565</td>
<td>1299</td>
<td>6.86%</td>
<td>$605 $470 $350</td>
</tr>
<tr>
<td>Helsinki</td>
<td>Warsaw</td>
<td>584</td>
<td>1331</td>
<td>7.03%</td>
<td>$620 $481 $359</td>
</tr>
<tr>
<td>Warsaw</td>
<td>Stockholm</td>
<td>521</td>
<td>1224</td>
<td>6.46%</td>
<td>$570 $442 $330</td>
</tr>
<tr>
<td>Stockholm</td>
<td>Berlin</td>
<td>516</td>
<td>1215</td>
<td>6.41%</td>
<td>$566 $439 $327</td>
</tr>
<tr>
<td>Berlin</td>
<td>Zurich</td>
<td>409</td>
<td>1024</td>
<td>5.41%</td>
<td>$477 $370 $276</td>
</tr>
<tr>
<td>Zurich</td>
<td>Luxembourg</td>
<td>184</td>
<td>569</td>
<td>3.00%</td>
<td>$265 $206 $153</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>Paris</td>
<td>177</td>
<td>553</td>
<td>2.92%</td>
<td>$257 $200 $149</td>
</tr>
<tr>
<td>Paris</td>
<td>London</td>
<td>220</td>
<td>649</td>
<td>3.43%</td>
<td>$302 $235 $175</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$8,819 $6,847 $5,103</td>
</tr>
</tbody>
</table>

TPM reduction 518
B. Sydney - Madrid

Maximum permitted mileage via Eastern Hemisphere (EH): 13194 miles
Maximum permitted mileage via Atlantic-Pacific (AP): 15007 miles
Maximum permitted mileage via Trans-Siberia (TS): 13294 miles

### Example itinerary no.1 (EH)

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Distance (miles)</th>
<th>Prorate factor</th>
<th>Share</th>
<th>Prorate share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney</td>
<td>Singapore</td>
<td>3900</td>
<td>4170</td>
<td>19.88%</td>
<td>$3,346 $2,597 $1,936</td>
</tr>
<tr>
<td>Singapore</td>
<td>Bangkok</td>
<td>897</td>
<td>1413</td>
<td>6.73%</td>
<td>$1,134 $880 $656</td>
</tr>
<tr>
<td>Bangkok</td>
<td>Cebu</td>
<td>1482</td>
<td>2045</td>
<td>9.75%</td>
<td>$1,641 $1,274 $949</td>
</tr>
<tr>
<td>Cebu</td>
<td>Delhi</td>
<td>1489</td>
<td>2052</td>
<td>9.78%</td>
<td>$1,647 $1,278 $952</td>
</tr>
<tr>
<td>Delhi</td>
<td>Karachi</td>
<td>665</td>
<td>1133</td>
<td>5.40%</td>
<td>$909 $706 $526</td>
</tr>
<tr>
<td>Karachi</td>
<td>Dubai</td>
<td>740</td>
<td>1394</td>
<td>6.64%</td>
<td>$1,119 $868 $647</td>
</tr>
<tr>
<td>Dubai</td>
<td>Bahrain</td>
<td>301</td>
<td>802</td>
<td>3.82%</td>
<td>$644 $500 $372</td>
</tr>
<tr>
<td>Bahrain</td>
<td>Kuwait</td>
<td>262</td>
<td>724</td>
<td>3.45%</td>
<td>$581 $451 $336</td>
</tr>
<tr>
<td>Kuwait</td>
<td>Cairo</td>
<td>997</td>
<td>1936</td>
<td>9.23%</td>
<td>$1,554 $1,206 $899</td>
</tr>
<tr>
<td>Cairo</td>
<td>Athens</td>
<td>688</td>
<td>1376</td>
<td>6.56%</td>
<td>$1,104 $857 $639</td>
</tr>
<tr>
<td>Athens</td>
<td>Rome</td>
<td>667</td>
<td>1452</td>
<td>6.92%</td>
<td>$1,165 $904 $674</td>
</tr>
<tr>
<td>Rome</td>
<td>Geneva</td>
<td>439</td>
<td>1079</td>
<td>5.14%</td>
<td>$866 $672 $501</td>
</tr>
<tr>
<td>Geneva</td>
<td>Madrid</td>
<td>628</td>
<td>1404</td>
<td>6.69%</td>
<td>$1,127 $875 $652</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>13155</strong> <strong>20980</strong> <strong>100%</strong> <strong>$16,836</strong> <strong>$13,068</strong> <strong>$9,738</strong></td>
</tr>
</tbody>
</table>

### Example itinerary no.2 (EH)

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Distance (miles)</th>
<th>Prorate factor</th>
<th>Share</th>
<th>Prorate share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney</td>
<td>Johannesburg</td>
<td>6842</td>
<td>7232</td>
<td>40.82%</td>
<td>$3,437 $2,667 $1,988</td>
</tr>
<tr>
<td>Johannesburg</td>
<td>Harare</td>
<td>596</td>
<td>1396</td>
<td>7.88%</td>
<td>$663 $515 $384</td>
</tr>
<tr>
<td>Harare</td>
<td>Lilongwe</td>
<td>324</td>
<td>891</td>
<td>5.03%</td>
<td>$423 $329 $245</td>
</tr>
<tr>
<td>Lilongwe</td>
<td>Dar-es-salaam</td>
<td>617</td>
<td>1432</td>
<td>8.08%</td>
<td>$680 $528 $394</td>
</tr>
<tr>
<td>Dar-es-salaam</td>
<td>Zurich</td>
<td>4196</td>
<td>5130</td>
<td>28.96%</td>
<td>$2,438 $1,892 $1,410</td>
</tr>
<tr>
<td>Zurich</td>
<td>Madrid</td>
<td>771</td>
<td>1634</td>
<td>9.22%</td>
<td>$776 $603 $449</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>13346</strong> <strong>17715</strong> <strong>100.00%</strong> <strong>$8,418</strong> <strong>$6,534</strong> <strong>$4,869</strong></td>
</tr>
</tbody>
</table>

TPM reduction 518

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Distance (miles)</th>
<th>Prorate factor</th>
<th>Share</th>
<th>Prorate share</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>12828</strong></td>
</tr>
</tbody>
</table>

TPM reduction 518
### Example itinerary no.3 (EH)

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Distance</th>
<th>Prorate factor</th>
<th>Share</th>
<th>Prorate share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney</td>
<td>Johannesburg</td>
<td>6,842</td>
<td>36.32%</td>
<td>$3,058</td>
<td>$2,373</td>
</tr>
<tr>
<td>Johannesburg</td>
<td>Accra</td>
<td>2,904</td>
<td>22.51%</td>
<td>$1,698</td>
<td>$1,318</td>
</tr>
<tr>
<td>Accra</td>
<td>Paris</td>
<td>3,010</td>
<td>20.17%</td>
<td>$1,767</td>
<td>$1,372</td>
</tr>
<tr>
<td>Paris</td>
<td>Madrid</td>
<td>652</td>
<td>20.99%</td>
<td>$1,767</td>
<td>$1,372</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>13,348</strong></td>
<td><strong>100.00%</strong></td>
<td><strong>$8,819</strong></td>
<td><strong>$6,534</strong></td>
</tr>
</tbody>
</table>

TPM reduction 518

12890

### Example itinerary no.4 (AP)

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Distance</th>
<th>Prorate factor</th>
<th>Share</th>
<th>Prorate share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney</td>
<td>Wellington</td>
<td>1,398</td>
<td>9.56%</td>
<td>$843</td>
<td>$654</td>
</tr>
<tr>
<td>Wellington</td>
<td>Nadi</td>
<td>1,637</td>
<td>10.73%</td>
<td>$947</td>
<td>$735</td>
</tr>
<tr>
<td>Nadi</td>
<td>Honolulu</td>
<td>3,174</td>
<td>18.38%</td>
<td>$1,621</td>
<td>$1,259</td>
</tr>
<tr>
<td>Honolulu</td>
<td>Vancouver</td>
<td>2,706</td>
<td>17.20%</td>
<td>$1,517</td>
<td>$1,178</td>
</tr>
<tr>
<td>Vancouver</td>
<td>New York</td>
<td>2,433</td>
<td>15.90%</td>
<td>$1,403</td>
<td>$1,089</td>
</tr>
<tr>
<td>New York</td>
<td>Dublin</td>
<td>3,176</td>
<td>19.26%</td>
<td>$1,698</td>
<td>$1,318</td>
</tr>
<tr>
<td>Dublin</td>
<td>Madrid</td>
<td>905</td>
<td>8.97%</td>
<td>$791</td>
<td>$614</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>15,429</strong></td>
<td><strong>100.00%</strong></td>
<td><strong>$8,819</strong></td>
<td><strong>$6,847</strong></td>
</tr>
</tbody>
</table>

### Example itinerary no.5 (TS)

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Distance</th>
<th>Prorate factor</th>
<th>Share</th>
<th>Prorate share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney</td>
<td>Tokyo</td>
<td>4,859</td>
<td>24.84%</td>
<td>$2,191</td>
<td>$1,701</td>
</tr>
<tr>
<td>Tokyo</td>
<td>Seoul</td>
<td>759</td>
<td>6.33%</td>
<td>$558</td>
<td>$433</td>
</tr>
<tr>
<td>Seoul</td>
<td>Moscow</td>
<td>4,096</td>
<td>24.95%</td>
<td>$2,200</td>
<td>$1,708</td>
</tr>
<tr>
<td>Moscow</td>
<td>Helsinki</td>
<td>565</td>
<td>6.58%</td>
<td>$580</td>
<td>$451</td>
</tr>
<tr>
<td>Helsinki</td>
<td>Warsaw</td>
<td>584</td>
<td>6.74%</td>
<td>$595</td>
<td>$462</td>
</tr>
<tr>
<td>Warsaw</td>
<td>Stockholm</td>
<td>521</td>
<td>6.20%</td>
<td>$547</td>
<td>$425</td>
</tr>
<tr>
<td>Stockholm</td>
<td>Berlin</td>
<td>516</td>
<td>6.16%</td>
<td>$543</td>
<td>$422</td>
</tr>
<tr>
<td>Berlin</td>
<td>Zurich</td>
<td>409</td>
<td>5.19%</td>
<td>$458</td>
<td>$355</td>
</tr>
<tr>
<td>Zurich</td>
<td>Luxembourg</td>
<td>184</td>
<td>2.88%</td>
<td>$254</td>
<td>$197</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>Paris</td>
<td>177</td>
<td>2.80%</td>
<td>$247</td>
<td>$192</td>
</tr>
<tr>
<td>Paris</td>
<td>Madrid</td>
<td>652</td>
<td>7.32%</td>
<td>$645</td>
<td>$501</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>13,322</strong></td>
<td><strong>100.00%</strong></td>
<td><strong>$8,819</strong></td>
<td><strong>$6,847</strong></td>
</tr>
</tbody>
</table>
**C. Sydney - Paris**

Maximum permitted mileage via Eastern Hemisphere (EH): 12992 miles  
Maximum permitted mileage via Atlantic-Pacific (AP): 15271 miles  
Maximum permitted mileage via Trans-Siberia (TS): 13278 miles

### Example itinerary no.1 (EH)

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Distance</th>
<th>Prorate factor</th>
<th>Share</th>
<th>Prorate share</th>
</tr>
</thead>
</table>
| Sydney       | Jakarta      | 3408     | 17.82%         | $1,500 $1,164 $868
| Jakarta      | Singapore    | 557      | 4.69%          | $395  $307  $229
| Singapore    | Kuala Lumpur | 197      | 2.27%          | $191  $149  $111
| Kuala Lumpur | Bangkok      | 762      | 5.83%          | $491  $381  $284
| Bangkok      | Columbo      | 1482     | 9.65%          | $812  $630  $470
| Columbo      | Delhi        | 1489     | 9.68%          | $815  $633  $471
| Delhi        | Karachi      | 665      | 5.35%          | $450  $349  $260
| Karachi      | Dubai        | 740      | 6.58%          | $554  $430  $320
| Dubai        | Bahrain      | 301      | 3.78%          | $319  $247  $184
| Bahrain      | Kuwait       | 262      | 3.42%          | $288  $223  $166
| Kuwait       | Cairo        | 997      | 9.14%          | $769  $597  $445
| Cairo        | Athens       | 688      | 6.49%          | $547  $424  $316
| Athens       | Rome         | 667      | 6.85%          | $577  $448  $334
| Rome         | Geneva       | 439      | 5.09%          | $429  $333  $248
| Geneva       | Paris        | 249      | 3.35%          | $282  $219  $163

Total: 12903 21193 100% $8,418 $6,534 $4,869

### Example itinerary no.2 (EH)

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Distance</th>
<th>Prorate factor</th>
<th>Share</th>
<th>Prorate share</th>
</tr>
</thead>
</table>
| Sydney        | Johannesburg | 6842     | 47.17%         | $3,970 $3,082 $2,297
| Johannesburg | Luanda        | 1548     | 16.68%         | $1,404 $1,090 $812
| Luanda        | Paris         | 4662     | 36.16%         | $3,044 $2,363 $1,760

Total: 13052 15333 100.00% $8,418 $6,534 $4,869

TPM reduction: 518 12534
### Example itinerary no.3 (EH)

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Distance</th>
<th>Prorate factor</th>
<th>Share</th>
<th>Prorate share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney</td>
<td>Johannesburg</td>
<td>6842</td>
<td>7232</td>
<td>31.22%</td>
<td>$2,628</td>
</tr>
<tr>
<td>Johannesburg</td>
<td>Douala</td>
<td>690</td>
<td>3927</td>
<td>16.95%</td>
<td>$1,427</td>
</tr>
<tr>
<td>Douala</td>
<td>Accra</td>
<td>2904</td>
<td>7986</td>
<td>34.48%</td>
<td>$2,902</td>
</tr>
<tr>
<td>Accra</td>
<td>Paris</td>
<td>3010</td>
<td>4017</td>
<td>17.34%</td>
<td>$1,460</td>
</tr>
</tbody>
</table>

| TPM reduction| 518           |          |                |       |               |

| Total         | 13446         | 23162    | 100.00%        | $8,419| $6,534        |

### Example itinerary no.4 (AP)

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Distance</th>
<th>Prorate factor</th>
<th>Share</th>
<th>Prorate share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney</td>
<td>Wellington</td>
<td>1398</td>
<td>1959</td>
<td>9.88%</td>
<td>$871</td>
</tr>
<tr>
<td>Wellington</td>
<td>Nadi</td>
<td>1637</td>
<td>2200</td>
<td>11.09%</td>
<td>$978</td>
</tr>
<tr>
<td>Nadi</td>
<td>Honolulu</td>
<td>3174</td>
<td>3768</td>
<td>19.00%</td>
<td>$1,675</td>
</tr>
<tr>
<td>Honolulu</td>
<td>Vancouver</td>
<td>2706</td>
<td>3525</td>
<td>17.77%</td>
<td>$1,567</td>
</tr>
<tr>
<td>Vancouver</td>
<td>New York</td>
<td>2433</td>
<td>3260</td>
<td>16.44%</td>
<td>$1,450</td>
</tr>
<tr>
<td>New York</td>
<td>Dublin</td>
<td>3176</td>
<td>3947</td>
<td>19.90%</td>
<td>$1,755</td>
</tr>
<tr>
<td>Dublin</td>
<td>Paris</td>
<td>492</td>
<td>1173</td>
<td>5.91%</td>
<td>$522</td>
</tr>
</tbody>
</table>

| Total         | 15016         | 19832    | 100.00%        | $8,819| $6,847        |

### Example itinerary no.5 (TS)

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Distance</th>
<th>Prorate factor</th>
<th>Share</th>
<th>Prorate share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney</td>
<td>Tokyo</td>
<td>4859</td>
<td>9403</td>
<td>26.81%</td>
<td>$2,364</td>
</tr>
<tr>
<td>Tokyo</td>
<td>Seoul</td>
<td>759</td>
<td>1249</td>
<td>6.83%</td>
<td>$602</td>
</tr>
<tr>
<td>Seoul</td>
<td>Moscow</td>
<td>4096</td>
<td>4924</td>
<td>26.92%</td>
<td>$2,374</td>
</tr>
<tr>
<td>Moscow</td>
<td>Helsinki</td>
<td>584</td>
<td>1331</td>
<td>7.28%</td>
<td>$642</td>
</tr>
<tr>
<td>Helsinki</td>
<td>Warsaw</td>
<td>521</td>
<td>1224</td>
<td>6.69%</td>
<td>$590</td>
</tr>
<tr>
<td>Warsaw</td>
<td>Stockholm</td>
<td>516</td>
<td>1215</td>
<td>6.64%</td>
<td>$586</td>
</tr>
<tr>
<td>Stockholm</td>
<td>Berlin</td>
<td>409</td>
<td>1024</td>
<td>5.60%</td>
<td>$494</td>
</tr>
<tr>
<td>Berlin</td>
<td>Zurich</td>
<td>184</td>
<td>569</td>
<td>3.11%</td>
<td>$274</td>
</tr>
<tr>
<td>Zurich</td>
<td>Luxembourg</td>
<td>177</td>
<td>553</td>
<td>3.02%</td>
<td>$267</td>
</tr>
</tbody>
</table>

| Total         | 12670         | 18291    | 100.00%        | $8,819| $6,847        |

### NOTE:

1. The example itineraries set out in this appendix have been prorated in accordance with the IATA Multilateral Prorate Agreement without the application of any airline specific provisos.

2. The fares shown are half round trip fares in Australian dollars.