

	<p>instructed by the Carrier the Agent shall be entitled to deduct from remittances the applicable commission to which it is entitled hereunder;</p> <p>7.3 the Agent shall remit to the Carrier such monies at such times and under such conditions as the Carrier may designate from time to time in accordance with the provisions of the Sales Agency Rules;</p> <p>7.4 a Traffic Document shall be issued immediately money is received by the Agent for specified passenger air transportation or ancillary services sold under this Agreement and the Agent shall be responsible for remittance to the Carrier of the amount payable in respect of such Traffic Document;</p> <p>7.5 in the event that the Agent becomes the subject of bankruptcy proceedings, is placed in receivership or judicial administration, goes into liquidation or becomes subject to a similar legal process affecting the normal operation of the Agent, then notwithstanding the normal remittance procedures under this Agreement, all monies due to the Carrier or held on behalf of the Carrier in connection with this Agreement shall become immediately due and payable.</p>	
8. REFUNDS	<p>the Agent shall make refund only in accordance with the Carrier's tariffs, conditions of carriage and written instructions, and against receipt. The Agent shall only refund Traffic Documents issued by such Agent.</p>	
9. REMUNERATION	<p>for the sale of air transportation and ancillary services by the Agent under this Agreement the Carrier shall remunerate the Agent in a manner and amount as may be stated from time to time and communicated to the Agent by the Carrier.</p> <p>Such remuneration shall constitute full compensation for the services rendered to the Carrier.</p>	
10. RECORDS AND INSPECTION	<p>the Agent shall maintain adequate records and accounts, together with supporting documents, recording the details of all transactions effected under this Agreement. Such records, accounts and documents shall be preserved by the Agent for at least two years from the date of the transactions to which they relate and shall be available for inspection or for copying by the Carrier whose Traffic Documents have been issued.</p>	<p>Audit is an important aspect of fraud and credit protection for the airlines.</p> <p>The procedures for audit are set out at paragraph 20.6 of the Statement of Facts.</p>
11. CONFIDENTIALITY	<p>11.1 the Carrier agrees that the Carrier and its officers, employees and agents, including ISS Management where applicable, will treat information and data relating to the Agent coming into its possession as confidential except to the extent required by law;</p> <p>11.2 notwithstanding Subparagraph 11.1 of this Paragraph, the Agent agrees that the Carrier, its officers, employees and agents, including ISS Management where applicable, may collect, process and disclose to other parties participating in the BSP, except to other Agents, such information and data for purposes of financial assessment of the Agent or of the orderly operation of agency administration or of the Billing and Settlement Plan;</p> <p>11.3 the Agent agrees that the Agent and its officers, employees and any other person acting on the Agent's behalf will treat information and data relating to the Carrier coming into its possession as confidential except to the extent required by law.</p>	<p>ISS Management is the unit within IATA responsible for managing the Billing & Settlement Plan ('BSP').</p>
12. TRANSFER, ASSIGNMENT, CHANGE OF LEGAL STATUS, OWNERSHIP, NAME OR LOCATION	<p>12.1 this Agreement shall not be assigned or otherwise transferred in whole or in part by the Agent to any other person or persons;</p> <p>12.2 in the event that the Agent proposes to effect any change(s) in the legal status, ownership, name(s) and/or address(es) (within the meaning of these expressions as used in the Sales Agency Rules under which the activities of any of its Approved Locations are conducted) the Agent undertakes to give prior notice in accordance with the detailed procedures set forth in those Rules.</p>	
13. TERMINATION	<p>13.1 this Agreement or its application to a specific Location (s) of the Agent shall be terminated if, in accordance with the Sales Agency Rules:</p>	

	<p>13.1.1 the Carrier withdraws its appointment of the Agent,</p> <p>13.1.2 the Agent withdraws from its appointment by the Carrier,</p> <p>13.1.3 the Agent is removed from the Agency List,</p> <p>13.1.4 the Agent relinquishes its IATA Approval/Accreditation;</p> <p>13.2 notice of termination of the Agreement as above may be given at any time by notice in writing. Unless otherwise specified in the Sales Agency Rules, such notice shall take effect no sooner than the last day of the month following the month in which the notice of termination is given, and such notice shall include the effective date of termination, without prejudice to fulfilment by each party of all obligations accrued prior to the date of termination.</p>	
14. ARBITRATION	if any matter is reviewed by arbitration pursuant to the Sales Agency Rules, the Agent hereby submits to arbitration in accordance with such Rules and agrees to observe the procedures therein provided and to abide by any arbitration award made thereunder.	The Sales Agency Rules applicable in Australia are contained in Resolution 816.
15. INDEMNITIES AND WAIVER	<p>15.1 the Carrier agrees to indemnify and hold harmless the Agent, its officers and employees from and against liability for any loss, injury, or damage, whether direct, indirect or consequential, arising in the course of transportation or other ancillary services provided by the Carrier pursuant to a sale made by the Agent hereunder or arising from the failure of the Carrier to provide such transportation or services, except to the extent that such loss, injury or damage is caused or contributed to by the Agent, its officers, employees or any other person acting on the Agent's behalf;</p> <p>15.2 the Agent agrees to indemnify and hold harmless the Carrier, its officers and employees from and against liability for any loss, injury, or damage, whether direct, indirect or consequential, arising from any negligent act or omission of the Agent, its officers, employees or any other person acting on the Agent's behalf, or from any breach by the Agent of this Agreement, except to the extent that such loss, injury or damage is caused or contributed to by the Carrier, its officers or employees;</p> <p>15.3 where the Carrier participates in an automated ticketing system for the issuance of neutral Traffic Documents and the Agent issues such Traffic Documents through the system on behalf of the Carrier, the Agent further agrees to indemnify and hold harmless the Carrier, its officers and employees for all loss, injury or damage, whether direct, indirect or consequential, resulting from the negligent or unauthorised use of the system or any part thereof by the Agent, its officers, employees or contractors (including independent contractors) or any other person acting on the Agent's behalf.</p>	
16. NOTICES	<p>all notices to be sent under this Agreement from the Carrier or from the Agency Administrator to the Agent, or from the Agent to the Carrier or to the Agency Administrator shall be sufficient if sent by any means that provides proof of dispatch or receipt addressed, as appropriate to:</p> <ul style="list-style-type: none"> — the principal office of the Agent, — the principal office of the Carrier, or <p>the Agency Administrator at the address shown in this Agreement, which address may be changed by notice given in writing from time to time by the Agency Administrator to the Agent.</p>	
17. APPLICABLE LAW	this Agreement shall be interpreted and governed in all respects by the law of the principal place of business of the Agent, except that, in regard to any matter of dispute arising solely in connection with the activities of a branch office location situated in a place other than that of the Agent's principal place of business, the law of the place where the branch office is situated shall apply.	
18. SEVERABILITY	if any provision of this Agreement is held to be invalid, this shall not have the effect of invalidating the other provisions which shall	

	nevertheless remain binding and effective between the parties.	
19. OTHER AGREEMENTS SUPERSEDED	this Agreement shall supersede any and all prior Passenger Sales Agency Agreements between the parties hereto with respect to Approved Locations of the Agent other than in the USA, without prejudice to such rights and liability as may exist at the date hereof.	
	<p>IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first above written</p> <p>Director General of the International Air Transport Association acting as agent for the Carriers referred to in the preamble hereto.</p> <p>by (Authorised Representative)</p> <p>IATA Address </p> <p>AGENT</p> <p>by Name Title </p> <p>Signature</p> <p>Full address </p> <p><i>Note: Where in accordance with local law, execution of the Agreement requires the signatures of the parties to be witnessed, or notarised, such formalities must be accomplished. The space below may be used for that purpose.</i></p> <p>WITNESS:</p>	

SCHEDULE 7

TRAVEL AGENCY COMMISSIONER - RESOLUTIONS

RESOLUTION	RESOLUTION PROVISION
<p>RESOLUTION 816 - PASSENGER SALES AGENCY RULES - SOUTH WEST PACIFIC</p>	<p>Section 12 - Reviews Under Authority of the Travel Agency Commissioner</p> <p>The matters under the purview of the Travel Agency Commissioner are set out in Resolution 816e as are the procedures for conducting reviews.</p>
<p>RESOLUTION 816 - PASSENGER SALES AGENCY RULES - SOUTH WEST PACIFIC</p>	<p>Section 14 - Review by Arbitration at Agent's Request</p> <p>14.1 RIGHT TO ARBITRATION REVIEW</p> <p>any Agent which considers itself aggrieved by a decision of the Travel Agency Commissioner ('the Commissioner') under Resolution 816e shall have the right to have the decision reviewed by arbitration in accordance with the following procedure (hereafter in this Section the term 'Agent' is used to designate both an aggrieved Agent and an applicant seeking review by arbitration, except where the context specifies otherwise).</p> <p>14.2 APPLICATION PROCEDURE</p> <p>the Agent shall send written notice to the Agency Administrator advising of its wish to have the decision reviewed by arbitration. The notice is to reach the Agency Administrator within 30 days of the date the Commissioner's decision was sent to the Agent. Thereafter the Agency Administrator shall dispatch to the Agent a form of Request for Arbitration and shall notify all Members that the Agent has requested arbitration.</p> <p>14.3 SETTING UP OF ARBITRATION BOARD</p> <p>14.3.1 the Agent may elect arbitration before:</p> <p>14.3.1(a) a sole arbitrator appointed by mutual agreement within 20 days of the date of dispatch to the Agent of the form of Request for Arbitration; (failing such agreement, the nomination shall be made by the President of the International Chamber of Commerce), or</p> <p>14.3.1(b) a sole arbitrator appointed by the President of the International Chamber of Commerce, or</p> <p>14.3.1(c) an Arbitration Board composed of three members as provided in Subparagraph 14.3.4 of this Paragraph;</p> <p>14.3.2 in any event the Agent shall complete, sign and return the form of Request for Arbitration so as to reach the Agency Administrator within 30 days of its dispatch to the Agent. On such form the Agent shall indicate its choice of (a), (b) or (c) above. Where it chooses arbitration before a three-member Arbitration Board, the Agent shall enter the name of an arbitrator acceptable to it and willing to act as such: the form shall be accompanied by a certified cheque or banker's draft for USD 750 or acceptable equivalent where a sole arbitrator has been chosen, or for USD 1,000 or acceptable equivalent where a three-member Arbitration Board has been chosen, as deposit on account of any costs that may become payable by the Agent;</p> <p>14.3.3 upon receipt of documentation from the Agent and IATA, and prior to holding the hearing, the arbitrator(s) may require the Agent and IATA to post certified cheques in an amount determined by the arbitrator(s), in US dollars or acceptable equivalent, to cover the estimated costs of the arbitration. Upon notification of the Arbitration Board's award, any money so posted, and in excess of the arbitration costs, shall be refunded to one or other or both parties, as appropriate, in accordance with the terms of the award;</p> <p>14.3.4 within 20 days of receipt by the Agency Administrator of the form of Request for Arbitration completed by the Agent electing arbitration before a three-member Board together with a certified cheque or banker's draft, the Agency Administrator shall nominate an arbitrator and the two arbitrators so nominated shall nominate a third who shall act as chairman of the Arbitration Board. If the third arbitrator has not</p>

been so nominated within 20 days after the nomination of the second arbitrator, the Agency Administrator shall request the President of the International Chamber of Commerce to nominate the third arbitrator;

14.3.5 the expression 'Arbitration Board' shall mean a sole arbitrator or a three-member Arbitration Board nominated pursuant to Subparagraphs 14.3.1, 14.3.2, and 14.3.4 of this Paragraph.

14.4 SUBSTITUTION OF ARBITRATOR

in the event of the resignation or incapacity of an arbitrator, the persons appointing such arbitrator shall, within 30 days of the date when the Agency Administrator is notified of such resignation or incapacity, appoint a substitute.

14.5 CONDUCT OF PROCEEDINGS

14.5.1 the Arbitration Board shall unless otherwise agreed by the Agent and the Agency Administrator, hold the hearing in the country of the Approved Location concerned or location under application as the case may be;

14.5.2 the Arbitration Board shall publish its award in writing not later than 60 days after appointment of the chairman or of the sole arbitrator, provided that this period may be extended by or with the agreement of the Agent and the Agency Administrator. If the Arbitration Board does not publish its award in writing within such period of 60 days, or within such extended period agreed by the Agent and the Agency Administrator, the Arbitration Board shall be deemed discharged without remuneration and the Agency Administrator shall request the President of the International Chamber of Commerce to appoint a sole arbitrator or another sole arbitrator (in place of the sole arbitrator discharged) who shall proceed in accordance with the provisions of Subparagraph 14.5.1 of this Paragraph and Paragraph 14.7 of this Section and shall publish his written award within 45 days of the date of his appointment;

14.5.3 the Arbitration Board shall reach its decision by a majority;

14.5.4 the Arbitration Board shall permit the parties to be heard either in person or by a representative and shall receive any relevant or material probative evidence bearing on the matter referred to it;

14.5.5 in all other respects the Arbitration Board shall settle its own procedures.

14.6 SCOPE OF APPEAL

14.6.1(a) review by the Arbitration Board shall be appellate and not de novo. The Board shall affirm the decision of the Commissioner unless it finds and concludes that the Commissioner's decision is deficient in one or more of the following respects:

14.6.1(a)(i) it is not supported by substantial evidence;

14.6.1(a)(ii) it contains error of applicable law;

14.6.1(a)(iii) it is arbitrary or capricious;

14.6.1(a)(iv) it is not in accordance with the terms of the Resolution under which it was taken;

14.6.1(a)(v) the penalty is inappropriate, inadequate or excessive;

14.6.1(b) Additionally, evidence may be considered which is available to the Arbitration Board but which for good cause could not be presented to the Commissioner.

14.7 AWARD

14.7.1 in the event the Arbitration Board does not affirm the decision of the Commissioner, it shall either direct action upon the Agent in accordance with the Board's findings, or refer the matter to the Commissioner for action consistent with the Board's decision;

14.7.2 the Arbitration Board shall direct that costs of the Arbitration Board shall be borne by the Agent if the Commissioner's decision is upheld, shall be borne by IATA if the Commissioner's decision is reversed, or shall be apportioned between the Agent and IATA in such manner as the Arbitration Board shall decide if the Commissioner's decision is modified. Nevertheless, if there are special circumstances warranting a

	<p>different award as to such costs, the Arbitration Board shall be empowered to direct that they be borne by the parties in such manner as it considers equitable. Costs of legal representation shall be borne by the party incurring such costs.</p> <p>14.8 EFFECT AND EFFECTIVE DATE OF THE AWARD</p> <p>14.8.1 the award of the Arbitration Board shall be final and conclusively binding on the Agent, IATA and all Members and shall be complied with in accordance with its terms:</p> <p>14.8.2 the Agency Administrator shall notify the Agent, all Members and ISS Management of the decision of the Arbitration Board and the award shall take effect, unless the Arbitration Board directs otherwise, from a date the Agency Administrator shall specify in advance:</p> <p>14.8.3 if the award requires the Agent to pay the costs of the Arbitration Board in whole or in part and the Agent has not paid such costs within 60 days of the date of notice given under Subparagraph 14.8.2 of this Paragraph, the Agency Administrator shall remove the Agent from the Agency List.</p>
<p>RESOLUTION 816e - CONDUCT OF REVIEW BY TRAVEL AGENCY COMMISSIONER - SOUTH WEST PACIFIC</p>	<p>RESOLVED that, the Travel Agency Commissioner — South West Pacific (‘ the Commissioner’) shall conduct reviews with respect to Agents and applicants in the countries concerned (it being understood that the definition in Section 1 of the Passenger Sales Agency Rules apply to this Resolution), in accordance with the following procedures:</p> <p>1. REVIEW INITIATED BY AGENT OR APPLICANT</p> <p>1.1 the Commissioner shall rule on cases initiated by:</p> <p>1.1.1 any Person whose application to become an Accredited Agent has been disapproved by the Agency Administrator, or has been disapproved upon reconsideration by the Agency Administrator,</p> <p>1.1.2 an Agent whose application for approval of an additional location has been disapproved by the Agency Administrator, or has been disapproved upon reconsideration by the Agency Administrator,</p> <p>1.1.3 any Person who has acquired ownership or is seeking to acquire ownership of an Accredited Agent or Location and whose application for change of ownership has been disapproved by the Agency Administrator, or has been disapproved upon reconsideration by the Agency Administrator,</p> <p>1.1.4 an Agent who has complained in writing in respect of another Accredited Agent that such other Agent has violated the provisions of Resolution 880 and the complaint has been found by the Agency Administrator to constitute a prima facie case,</p> <p>1.1.5 an Agent who has been removed or whose Location has been removed from the Agency List by the Agency Administrator,</p> <p>1.1.6 an Agent whose application for change of location and/or name has been disapproved by the Agency Administrator.</p> <p>1.1.7 an Agent from which all Standard Traffic Documents and Carrier Identification Plates have been withdrawn by ISS Management or its representative pursuant to Resolution 816, Section 6, Subparagraph 6.8.10.1(b); provided that any review initiated under this provision shall be interlocutory pending a redetermination of the eligibility of the Agent or the Location to be retained on the Agency List under Paragraph 2 of this Resolution:</p> <p>1.2 for a review under this Paragraph the person authorised to initiate the review may do so by submitting a written request to the Commissioner, with copy to the Agency Administrator. Requests for reviews of disapproved applicants must be submitted within 30 calendar days of the Agency Administrator’s notice of the decision under appeal. The Commissioner shall review the case in a de novo adversary proceeding and shall decide, on the basis of all probative evidence presented during the proceeding, whether or not the applicant is qualified pursuant to the Sales Agency Rules for inclusion on the Agency List. Requests for reviews of alleged breaches of Resolution 880 must be submitted within a reasonable time of the alleged breach.</p> <p>2. REVIEW INITIATED BY AGENCY ADMINISTRATOR</p> <p>2.1 the Agency Administrator shall on his own Initiative and may at the request of any</p>

Member, initiate a review to redetermine the approval of an Agent or Location under the appropriate provisions of the Sales Agency Rules; or determine whether the Agent or Location has violated any other provision of these same Rules in the following instances:

2.1.1 when an Agent uses a credit card issued in the name of the Agent or in the name of a person permitted to act on behalf of the Agent or in the name of the Agent's officer, partner or employee in connection with the sale of air transportation on behalf of a Member to any customer of the Agent,

2.1.2 when an Agent has failed to comply, to the satisfaction of the Agency Administrator, with financial requirements or any other measure or condition prescribed by the Commissioner as a prerequisite to the retention of the Agent on the Agency List following a review,

2.1.3 when an Agent refuses to surrender unused Traffic Documents or Carrier Identification Plates on demand by the Member or ISS Management,

2.1.4 when an Agent issues Traffic Documents or causes Traffic Documents to be issued at any unauthorised location,

2.1.5 when an Agent fails to immediately notify ISS Management and the Member concerned of the removal of Traffic Documents in the event of robbery, theft, burglary, fraud or other unlawful means, or that Traffic Documents have been destroyed.

2.1.6 when an Agent knowingly accepts unissued Traffic Documents assigned to another Approved Agent,

2.1.7 when pursuant to the provisions of Section 6, Subparagraph 6.7.11 of the Sales Agency Rules an audit or other investigation has revealed irregularities in an Agent's accounting standards,

2.1.8 when pursuant to the provisions of Section 6, Subparagraph 6.7.12 of the Sales Agency Rules the Agency Administrator receives written information which leads to the belief that Members and Airlines ability to collect monies for Standard Traffic Documents may be prejudiced,

2.1.9 when an Agent refuses to permit a Member or ISS Management to audit or obtain an audit of Traffic Documents,

2.1.10 when an Agent is to be reviewed pursuant to the terms of Section 11, Paragraph 11.8 of the Sales Agency Rules;

2.2 each written request for a review shall be accompanied by a certification by the Agency Administrator that a true copy has been served on the Agent. The Commissioner shall conduct each review initiated under this Paragraph in an adversary proceeding and will decide, on the basis of all probative evidence presented during the proceedings, whether or not the Agent has failed to comply with or has violated the Resolution provisions alleged by the Agency Administrator. If the decision is affirmative, the Commissioner shall impose on the Agent a penalty in accordance with the provisions of this Resolution which he deems appropriate under the circumstances:

2.3 in addition to the reviews set forth in Subparagraph 2.1 of this Paragraph, the Agency Administrator shall file a written complaint with the Commissioner, with copy to the Agent in the following circumstances:

2.3.1 on receipt of a complaint from another Agent alleging a breach of Resolution 880,

2.3.2 on receipt of a complaint lodged by the General Assembly.

3. RULES OF PROCEDURE

3.1/3.1.1 the Commissioner shall promulgate rules of practice and procedures designed to ensure a prompt and impartial review of all matters properly submitted to him. The rules shall grant to each party the following minimum rights:

3.1.1.1 to move for dismissal,

3.1.1.2 to move for summary judgement or other appropriate relief,

3.1.1.3 to submit in writing any relevant information which it deems appropriate,

3.1.1.4 to call witnesses.

3.1.1.5 to appear personally and/or be represented by counsel and present evidence and arguments in support of its position,

3.1.1.6 to hear the evidence and arguments of the other party and its witnesses,

3.1.1.7 to cross-examine the other party and its witnesses;

3.1.2 proceedings before the Commissioner shall be informal, and the parties shall not be required to adhere to strict rules of evidence;

3.1.3 the party who has initiated a Request for Review may withdraw all or part of it, in writing, at any time prior to the issuance of a decision, provided that if it is withdrawn by that party after the hearing, the Commissioner may make an appropriate award to cover costs incurred by the other party and the Commissioner;

3.2 in a review conducted pursuant to this Resolution, the parties shall be the Agency Administrator, the applicant or Agent concerned, or the complainant, as the case may be. Except as the Commissioner may otherwise direct in writing, any person who is not a party, or a witness, who desires to make relevant information available to the Commissioner in connection with a pending review shall do so only through one of the parties thereto. The party concerned shall promptly forward such information in writing to the Commissioner with a copy to the other party. Such person shall be subject to cross-examination;

3.3/3.3.1 except for good cause stated in writing, the Commissioner shall schedule each review proceeding not later than 45 days after receipt of a request pursuant to this Resolution, and shall render his decision within 30 days after the close of the record in the proceeding; provided that, in reviews arising under Subparagraph 2.1.7 of this Resolution, the Travel Agency Commissioner shall upon receipt of the request for review determine whether the circumstances warrant the immediate placement of the Agent on a commissionable Cash Basis and, if satisfied that such is the case, issue an interlocutory decision to that effect, with copy to ISS Management, pending final disposition of the review;

3.3.2 in each decision, the Commissioner shall be bound by the provisions of the applicable Resolutions, and shall make specific findings of fact and conclusions with respect thereto. The decision shall be in writing and shall include all such findings and conclusions and with respect to reviews conducted under Paragraph 1.1 of this Resolution any conditions imposed by the Commissioner. With respect to review proceedings instituted pursuant to Paragraph 2.1 of this Resolution, the decision shall be in writing and shall include all such findings and conclusions and any penalty imposed pursuant to Paragraph 3.5 of this Resolution. A signed copy of the decision shall be served on each party. Subject to action taken under Paragraph 4 of this Resolution, the decision shall be final and binding on the applicant or Agent, and on IATA and all Members;

3.3.3 each decision which includes a finding that the Agent, at the time of hearing, is improperly withholding money from a Member or that the Agent has improperly obtained and used reduced fare transportation on the services of Members, shall in addition to any penalty imposed pursuant to this Resolution;

3.3.3.1 either suspend the Agent's approval, in which case the provision of Subparagraph 13.4.2, Section 13 of Resolution 816 shall apply, or

3.3.3.2 place the Agent on a Cash Basis with commission payment withheld until all outstanding amounts due have been paid or until full payment of the fare for the reduced fare ticket has been made to the Member whose ticket was issued;

3.3.4 the Commissioner shall be empowered to waive an oral hearing of a review based on written submissions of the parties and to render a decision on written stipulations between the parties;

3.3.5 each decision by the Commissioner shall, with respect to future interpretations of Resolutions concerned, constitute a precedent in accordance with the legal principle of stare decisis;

3.4/3.4.1 a review requested by an Agent pursuant to this Resolution shall have the effect of staying the adverse decision of the Agency Administrator, pending the decision of the Commissioner. If the Commissioner finds that the Agent or Location qualifies for retention, the Agency Administrator shall retain the Agent or Location on the Agency List and shall so notify the Agent and all Members;

3.4.2 if the Commissioner finds that the Agent can be relied upon to adhere to the terms of the Sales Agency Rules subject to the fulfillment of certain terms and conditions, the Agency Administrator shall retain the Agent or Location on the Agency List after verification that such terms and conditions have been met pursuant to the specific terms of the Commissioner's decision. The Agency Administrator shall notify the Agent and all Members that the Agent or Location is maintained on the Agency List;

3.5(a) the Commissioner may decide the following:

3.5(a)(i) dismissal;

3.5(a)(ii) inclusion in or exclusion from the Agency List (in the case of an applicant) or of an additional branch (in the case of an Agent);

3.5(a)(iii) retention on the Agency List;

3.5(a)(iv) removal from the Agency List;

3.5(a)(v) suspension of IATA approval for not more than 90 days with the Agent on a non-commissionable Cash Basis or at the Agent's option a monetary indemnity payable to IATA in lieu of suspension;

3.5(a)(vi) loss of reduced fare transportation privileges for not more than two years;

3.5(a)(vii) reprimand;

3.5(a)(viii) place the Agent on a commissionable Cash Basis,

3.5(a)(ix) decide on any other measure or attach such conditions to his decision as he considers appropriate and which are consistent with and may reasonably be applied under the Resolutions, particularly in the matter of restitution, and set the date for the Agent's compliance therewith,

3.5(a)(x) any combination of these;

3.5(b) the Commissioner may offer the Agent a choice between two or more of the above;

3.6 the Commissioner shall regularly schedule review proceedings at his office but may, if he deems circumstances warrant, schedule reviews at other places.

4. REVIEW BY ARBITRATION

an Agent or applicant which considers itself aggrieved by a decision of the Commissioner taken under provisions of this Resolution shall have the right to have such decision reviewed by arbitration in accordance with the procedures set out in Section 14 of the Sales Agency Rules.

InterVISTAS
CONSULTING INC

Statement by
Dr. Michael W. Tretheway

*strategic
transportation
business
solutions*

29 April 2001

Statement of Dr. Michael W. Tretheway

29 April 2001

MW Tretheway



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1.0 Statement of Identity, Interest and Qualifications

1.1 Statement of Identity

- 1.1.1 I am Dr. Michael W. Tretheway. I reside at 12471 Alliance Drive, Richmond, British Columbia, Canada.
- 1.1.2 I am currently Senior Vice President Marketing and Chief Economist of InterVISTAS Consulting Inc.
- 1.1.3 InterVISTAS Consulting Inc. is an independent employee owned consulting firm providing consulting services to various clients (airport, airline, government and non-aviation). It had its genesis in the successful marketing and strategic planning department of the Vancouver International Airport Authority. In 1997, this group was formed into a wholly owned subsidiary of the airport authority, but has since added professionals from diverse areas of aviation and transportation and was sold to its employees in 1999.
- 1.1.4 InterVISTAS Consulting Inc. pays a royalty to the Vancouver International Airport Authority for the use of the "VISTAS" name.

1.2 My Qualifications to Comment in this Matter

- 1.2.1 A copy of my curriculum vitae is provided at Appendix A.
- 1.2.2 I hold a Ph.D. in Economics from the University of Wisconsin.
- 1.2.3 From 1983-1996 I was an Associate Professor in the Faculty of Commerce and Business Administration, University of British Columbia. I have taught courses in air transportation management, managerial economics, business statistics, transportation economics, project evaluation, the role of transportation in the economy, government and business, and business logistics. I am the author of over 40 scholarly papers and my research has been published in journals such as *The Rand Journal of Economics*, *The Review of Economics and Statistics*, *The Logistics and Transportation Review*, *Transportation*, *Transportation Research*, *The Journal of Transport Economics and Policy*, *The Journal of Air Transport Management*, *Annals of Aviation and Space Law*, and *the Transportation Practitioner's Journal*. I am the author of several books, including *Airline Economics*, *Airline Cost and Performance*, and *Airline Deregulation and Privatisation*.
- 1.2.4 Since 1 January 1997 I have held a position as Adjunct Professor of Transportation and Logistics in the Faculty of Commerce and Business Administration at the University of British Columbia. My current appointment runs to 31 December 2001.

1.2.5 I have served on the Board of Editors of the *Logistics and Transportation Review*, the *Journal of Air Transport Management*, and the *Quarterly Journal of Business and Economics*.

1.2.6 I served as a visiting fellow at the Australian Bureau of Transport and Communication Economics (1994).

1.2.7 In addition to my duties at the University of British Columbia, I have taught at the Université Canadienne en France, Shanghai Jiao Tung University, Sian Jiao Tung University and Nankai University.

1.2.8 From January 1994 to March 1997, I was Special Advisor to the President, Vancouver International Airport Authority. In this role I worked in many areas of the airport authority and its subsidiary companies operating other airports.

1.2.9 From March 1997 to December 1998 I was Vice President of Marketing Services for YVR-VISTAS, a wholly owned subsidiary of the Vancouver International Airport Authority.

1.2.10 Since January 1999 I have been Senior Vice President Marketing and Chief Economist of Inter VISTAS Consulting Inc.

1.2.11 I have served as an advisor or consultant to government agencies:

- the U.S. Civil Aeronautics Board
- the Competition Bureau (formerly the Bureau of Competition Policy)(Canada)
- the Canadian Transportation Agency
- Transport Canada
- the Minister of Transport (Canada)
- The Canada Transportation Act Review Panel

to labour organisations:

- The Air Line Pilots Association
- Canadian Air Line Pilots Association
- Association of Professional Flight Attendants
- Wardair Pilots Association
- Council of Canadian Airline Employees
- The Canadian Union of Public Employees



- The Canadian Auto Workers

to a consumer group:

- The Consumers Association of Canada

to airports, among which are:

- Auckland International Airport Corporation
- Wellington International Airport Ltd
- Comox Valley Airport Commission
- Drewitz Airport (Germany)
- Gander International Airport Authority
- Government of the Northwest Territories
- Hamilton International Airport (TradePort International)
- Lamezia Terme International Airport (Italy)
- Moncton Airport Authority
- North Peace Airport Society
- Regina Airport Authority
- Vancouver International Airport Authority
- Winnipeg International Airport Authority

to airlines:

- Canadian Airlines International Ltd.
- Pacific Western Airlines
- Qantas
- British Airways
- American Airlines
- Comair (South Africa)
- United Airlines



- Scandinavian Airline System
- Lufthansa

and to others, including the International Air Transport Association.

1.2.12 Among others, I have provided expert witness statements on behalf of:

- the (Canadian) Competition Bureau before the (Canadian) Competition Tribunal and the National Transportation Agency;
- Qantas and British Airways before the Australian Trade Practices Commission;
- Qantas to the New Zealand Competition Commission;
- Lufthansa, SAS and United before the Commission of the European Union;
- Comair before the South African Air Services Licensing Board;
- T1T2LP (Terminal 1 – Terminal 2 Limited Partnership) before the Federal Court of Canada;
- the Association of American Railroads before the Interstate Commerce Commission; and
- Rocky Mountaineer Rail Tours Ltd. before the Canada Transportation Act Review Panel.

1.2.13 My qualifications to comment on issues regarding airlines and/or airports have always been accepted in these matters.

1.3 Statement of Interest

1.3.1 I am a shareholder in IVM Investments Inc. This company purchased YVR-VISTAS (subsequently renamed Inter VISTAS Consulting Inc.).

1.3.2 I do not own any shares in any airline or airline service business, other than IVM Investments Inc.

1.3.3 I have been retained by the International Air Transport Association (Montreal Quebec) to provide a statement in the application for renewal of authorisation to operate a passenger agency programme in Australia.



2.0 Questions to be Addressed

2.1 Questions

- 2.1.1 I have been asked by counsel for IATA to address the following questions:
- 2.1.2 In my opinion, what are the benefits from the IATA passenger agency system in Australia, including benefits to travel agents, airlines, the tourism and other business sectors, and to Australian travellers?
- 2.1.3 In my opinion, are the elements of the IATA passenger agency programme more or less competitive in Australia today than in 1984?
- 2.1.4 In my opinion, what is the balance of benefits of the IATA passenger agency programme in Australia?
- 2.1.5 How would the passenger agency industry in Australia function without a renewal of the IATA authorisation?

2.2 Basis For My Statement

- 2.2.1 In my statement I utilise the statement of Mr. Gilbey, Director of Passenger Distribution Policy at IATA, which sets forth a factual description of the IATA passenger agency programme in Australia. I do not repeat these facts here.
- 2.2.2 In making my statement I draw on my 23 years experience as a researcher in the air transport industry. Included in my CV are numerous papers on the international air transport system, including IATA. Since 1994 I have been responsible for the passenger and route marketing programs of several airports. The marketing staff reporting to me include individuals who formerly operated travel agencies, and who formerly were responsible for various airline route planning and marketing functions. I also draw on my experience in evaluating competition conditions for the Canadian Competition Bureau and other clients.

2.3 Outline of My Statement

- 2.3.1 I proceed by first describing in Section 3 the facilitation benefits which are achieved by the IATA passenger agency programme.
- 2.3.2 Section 4 looks at the restrictive practices which historically had been a part of the IATA passenger agency programme.
- 2.3.3 Section 5 addresses what the airline and agency industries would look like in the absence of the IATA agency programme.



2.3.4 Section 6 offers a summary of the conclusions I have drawn.



3.0 Benefits of the IATA Passenger Agency Programme in Australia

3.1 Agents in any economic sector must win approval of both buyers and sellers

3.1.1 Regardless of the economic sector, the role of an agent is to sell the products or services of others. Before an agent can earn any revenue it must locate sellers willing to allow the agent to sell its services, and it must locate buyers. Establishment of an agency can be a time consuming and expensive process to locate buyers and sellers and to receive authorisation from each to conduct transactions on their behalf. The high cost of establishing an ability to act as an agent can constitute a formidable entry barrier.

3.1.2 The cost of entry into an agency business can be dramatically lowered if there is a mechanism by which an agent can be rapidly and inexpensively authorised to act for a wide range of buyers and sellers. Without such a mechanism, the cost of entry may become a barrier to entry.

3.1.3 A prospective real estate agent, for example, could spend years building a reputation and contact list before they are able to secure a steady flow of sellers. Because of time and expense, the real estate industry has developed programs which allow any qualified agent to sell homes listed by other agents in the system. This has significantly reduced the cost of the agent establishing itself in the business. The system has reduced entry barriers in the real estate agency system in many jurisdictions. I am advised that such a system, Multilist, is in operation in Australia.

3.2 The IATA agency authorisation process lowers the cost of entry into the passenger agency business.

3.2.1 Similarly, the IATA travel agent system reduces the cost of entry into the passenger agency business.

3.2.2 By undergoing a single process of qualifying as an IATA authorised agent, a new agency is able to sell the services of a wide range of airlines upon issuance of ticketing plates or provision of a connections to an automated ticketing system.

3.2.3 The specifics of the IATA agency programme in Australia are described in the submission by Mr. Gilbey.

3.2.4 Here I note that an important dimension of the program is the general concurrence arrangements. It allows a newly authorised agent in Australia to sell the services of 83 IATA airlines as soon as the airline supplies the agent with its plates or connects the agent to an



automated ticketing system. (A list of the airlines participating in general concurrence in Australia is provided in Schedule 5 of the submission by Mr. Gilbey).

3.2.5 Of critical importance is the fact that the major airlines serving the domestic and international market to/from/within Australia all participate in general concurrence. This includes the major domestic carriers:

- Ansett Australia¹
- Qantas Airways Ltd.
- Hazelton Airlines

the major trans-Tasman carrier not listed above:

- Air New Zealand Ltd.

and the second major domestic carrier in New Zealand (Qantas New Zealand);²

and the major intercontinental carriers serving Australia, including, among others:

- All Nippon Airways Co. Ltd.
- British Airways Plc.
- Cathay Pacific Airways Ltd.
- Garuda Indonesia
- Japan Airlines Company Ltd.
- Deutsche Lufthansa AG
- Malaysian Airlines
- Singapore Airlines Limited
- Thai Airways International Public Co.
- United Airlines

This allows an agent upon authorisation by IATA, to begin sales of the primary air services to/from/within Australia upon issuance of ticketing plates or connections to an automated

¹ I am informed that Ansett International does not have its own statement of general concurrence but is included under the umbrella of Ansett Australia's general concurrence.

² I note that Qantas New Zealand entered into receivership on 21 April 2001.



distribution system. This is a significant efficiency gain and dramatically lowers the barriers to entry into the agency business.

- 3.2.6 In addition to the list of IATA airlines participating in general concurrence, there are other IATA airlines for which a passenger agency may be able to sell services. Some carriers chose to reserve their approval of agencies authorised to issue tickets on their behalf. As well, there are non-IATA airlines which participate in the Billing and Settlement Plan (BSP). Altogether, there are 60 IATA airlines participating in the agency program in Australia, and another ten non-IATA carriers which participate in the BSP.
- 3.2.7 The agency system allows a prospective applicant to file a single application, pay a single *nominal* application fee of only A\$1,195, and undergo a single examination process to enter the industry.
- 3.2.8 The effectiveness of this system can be seen from the high success rate of applications.
- 3.2.9 In addition to providing a mechanism for being able to sell the services of a large number of air carriers, the IATA authorisation process also provides access to a vast market of buyers. The IATA accreditation has a franchise value which signals to consumers that the agent is able to sell tickets of a wide range of airlines and that the agent has undergone a rigorous approval process regarding matters of fiduciary responsibility.
- 3.2.10 Thus the IATA process provides a prospective agent with access to both a wide range of sellers (airlines) as well as a recognised franchise value with an enormous market of consumers.
- 3.2.11 This supports the development of a competitive passenger agency industry.

3.3 The IATA agency authorisation process removes the airlines from direct authorisation of prospective agents, providing a high degree of transparency

- 3.3.1 The agency system also removes the airlines from the roles of primary examiner and primary inspector. This provides a high degree of independence and transparency to the agency authorisation process. As stated in Resolution 816, "... if the Agency Administrator decides the applicant or location has shown that it meets the qualifications, the Agency Administrator shall approve the applicant or location and enter it on the Agency List."
- 3.3.2 Air carriers, especially the major carriers serving the Australian market, are not able to create market power for particular agents in the agency system by choosing to restrict entry. The neutral IATA process allows any qualified entrepreneur to enter the agency business in Australia. While the IATA agency approval process does allow for individual air carriers to enter objections to the IATA Agency Administrator, I understand that there has never been any objections by airlines to the application of a prospective Australian passenger agency.



Elsewhere, outside of Australia, I understand objections are rare and largely confined to cases where the entrepreneur has a previous experience in the business where an air carrier was unpaid or fraud committed.

3.3.3 As outlined in the Statement by Mr. Gilbey, resolutions regarding the IATA agency system in Australia are passed at the passenger agency conference, and require unanimous approval. This requirement removes the ability of the home (Australian) carriers to dominate the outcome of the conference. As well, because similar rules operate elsewhere, home carriers recognise that any attempt to win rules which would create advantages for them at the expense of foreign carriers, would be met by responses in the rules of agency systems in other countries to which they fly.

3.3.4 The IATA passenger agency program also has a formal role for the agents in making recommendations. Section 2.2 of Resolution 816 specifies that six of the twelve members of the Executive Council shall be approved agents and further, that a quorum requires a majority of agent representatives to be present. Thus agencies have equal representation on the Council, which makes recommendations to the Assembly.

3.3.5 There is also a second forum in which agents have formal representation. This is the Joint Agency Liaison Working Group.

3.3.6 When considering the governance of the IATA agency program, it must be kept in mind that it is unclear whether an alternative system would provide for the same neutralisation of the potential power of home carriers, or for any role of the agencies themselves in the programme's governance.

3.4 The IATA agency program is non-discriminatory with respect to passenger agency commissions

3.4.1 The IATA agency system provides access to selling the services of airlines throughout the world on an equal basis for small agencies on equivalent terms as for large agencies. There is nothing in the IATA authorisation process or of its operation which creates advantages for large agents or for any other classification of agents.

3.5 There are benefits to air carriers

3.5.1 The IATA travel agency system is cost effective for air carriers, relative to developing their own agency authorisation programs.

3.5.2 Industry wide, the collective cost of separate programs to find and authorise agents and administer each passenger agency program would be considerable. There are 53 airlines operating within or to Australia, and 1,590 domestic and international IATA travel agents, large and small, operating 2,305 locations, selling tickets on approximately 270 airlines worldwide. If each of the 53 airlines had to establish a financial relationship with each of the 2,305 Australian agents, there would need to be as many as 79,977 evaluations and



contractual relations developed. The IATA agency system, combined with the IATA concurrence system, significantly reduces the costs to the airlines of establishing and administering an agency program.

- 3.5.3 As well, there are many potential travellers to Australia scattered throughout the world. Worldwide, the IATA passenger agency system includes 34,406 travel agencies operating 56,900 travel agent locations. (As well, there are 18,607 agencies operating 32,040 locations including satellite locations and intermediaries in the IATAN passenger agency system in the US. IATAN is a subsidiary of IATA.) Through the IATA concurrence program, virtually all of these are able to sell tickets to and within Australia on the many major carriers providing services in the market. If only 13 of the international carriers listed in section 3.3.5 are considered, and if there are only 10,000 agencies which would wish to be able to book travel to Australia, then over 130,000 evaluations and contracts would need to be undertaken.
- 3.5.4 Of course, the costs of such a massive evaluation of agents would be uneconomic. In the absence of the IATA agency program, only a fraction of the world's travel agents would be engaged to sell tickets to and within Australia.
- 3.5.5 Airlines are a sector operating on relatively thin profit margins, and the industry has high operating leverage – meaning that fixed costs of a flight are high. Thus the ability to sell even a few tickets on an incremental basis through an authorised agent somewhere else in the world, can provide significant benefit to the carriers serving Australia.
- 3.5.6 The IATA agency system is especially important for those carriers not aligned with one of the two major Australian carriers. The latter and their alliance partners can be expected, in the absence of the IATA agency system, to develop a travel agency authorisation program in Australia, while most of the former would find this too expensive. To the extent that they would incur the expense of authorising Australian agencies, it is my opinion that they would confine this largely to their gateway markets. This would be to the detriment of travellers living or destined beyond the gateways.
- 3.5.7 Because of the enormous costs of establishing relationships with the 56,900 agencies worldwide and because of the high operating leverage of the industry (whereby each additional ticket sold has little additional cost in the immediate term), in my opinion, the end of the global IATA passenger agency system could induce non-aligned air carriers to gravitate toward joining one of the major global alliances.

3.6 There are benefits to air travellers

- 3.6.1 The IATA agency program offers significant benefits to travellers.
- 3.6.2 It offers the Australian consumer a wider choice of products -- in terms of choice of destinations, carriers, ticket flexibility. The Australian IATA agency is able to sell services on

over 80 air carriers, including 49 carriers participating in the Australian BSP upon issuance of ticketing plates or establishment of connections to an automated distribution system.

- 3.6.3 With the ability to sell the services of a large number of competing carriers, the IATA authorised agency provides better information to consumers than would an agency which is confined to selling the tickets of one or a limited number of carriers.
- 3.6.4 As well, the IATA agency programme offers Australian consumer with a standard for product availability, choice and agent conduct. There is a known standard of which the consumer is able to avail him or herself. The effect of this should not be underestimated. Because of the existence of the IATA standard in the market, even non-IATA agencies are likely to adhere to the standard in a competitive travel agency market. This significantly reduces consumer information costs, government business practice enforcement costs and costs to consumer of "buyer beware" practices.
- 3.6.5 The fact that the IATA agency programme is worldwide offers Australian consumers a global network of services adhering to the same standard while travelling outside of Australia. There are 56,900 agencies worldwide selling tickets for travel on 270 air carriers. National consumer protection laws are generally unable to reach beyond national borders. Thus the IATA programme can be of significant benefit to Australians when travelling outside the continent.
- 3.6.6 Because all of the major carriers providing service within/to/from Australia participate in the concurrence dimension of the IATA agency program, it is able to provide the consumer a competitive choice of air carrier. This benefit applies to different types of travellers (business vs. leisure). The IATA system ensures that agents and consumers can choose from among almost any air service or combination of air services, including indirect routings or combination services utilising flight segments of otherwise competing air carriers.
- 3.6.7 This pro-competitive effect is especially important for providing a competitive choice for to those unaligned carriers which lack specific authorisations by the ACCC to discuss prices, capacity and other conditions of service in Australia (e.g., Qantas and British Airways). Prices for the services of these unaligned carriers and interline services are readily computed and booked by travel agents and other airlines.

3.7 There are benefits to Australian tourism and commerce

- 3.7.1 The IATA agency programme in Australia does not exist in a void. It is part of a global system for facilitating the sale of airline services.
- 3.7.2 As such, it exposes potential travellers outside of Australia to access to Australian air services and destinations, a significant benefit to tourism and generally to commerce. There are 56,900 agencies in the global IATA passenger agency programme, each of which will be able to sell travel to and within Australia due to the fact that most of the major carriers in the Australian market provide authorisation by concurrence.



- 3.7.3 In the absence of an IATA global agency programme, it should be expected that only a fraction of the travel agencies in the world would possess the ability to issue tickets to or within Australia. As already described, if only 13 of the international carriers listed in section 3.3.5 are considered and if these were to undertake evaluations and agreements with only 10,000 agencies, then over 130,000 evaluations and contracts would need to be undertaken. The cost of this would be prohibitive.
- 3.7.4 If all countries were to decide to eliminate the IATA agency programme in their country, then the impact on Australian tourism, in particular, could be considerable. Fewer consumers would be able to purchase air travel to Australia in a convenient and low cost manner.
- 3.7.5 Australian businesses similarly benefit from being able to conduct business with an agency of their choice which is able to sell services on a broad array of airlines, including all the major competing carriers in the Australian market. Even for those businesses which choose to work with a single agent, possibly with a dedicated satellite office of that agency, tickets on competing carriers can be issued, either as a routine matter, or as the exception to deal with unique itineraries or with attempts by air carriers to exert market power over business travel.
- 3.7.6 I note that there are significant employment benefits from the IATA agency programme. It is estimated that at least 9,670 individuals are employed in Australia at the 2,305 IATA agency locations in Australia. In addition, IATA directly employs roughly 30 individuals in Australia for administration of the agency program or the BSP.



4.0 The IATA Agency Programme and Competition

4.1 Historical development of restrictive practices in IATA facilitation programmes

- 4.1.1 IATA has played a key role in the facilitation of the airline industry. It has offered programmes such as common industry ticket stock, settlement services, passenger and cargo agency programs, etc. All of these share the goal of reducing costs or standardising consumer services in an industry which embraces literally hundreds of separate air carriers, a billion passengers, and hundreds of thousands of cargo shippers.
- 4.1.2 While one of IATA's primary missions is in facilitating the development of common standards and implementation of cost reducing services in the airline industry, governments have historically used IATA processes to support their desire to regulated prices and travel conditions in order to regulate the level of competition affecting government owned air carriers. Thus, the IATA system had imposed upon it a de facto regulatory role in addition to its own primary facilitation role. Well known examples of such regulatory practices are requirements that carriers co-ordinate prices or fix travel agent commissions.
- 4.1.3 Historically, the restrictive (i.e., regulatory) practices in various IATA programmes were not only allowed by governments but also required. There are a number of factors for this, but primary is that air transport was developed in the post 1945 era in a regime where governments sought to protect national (i.e., government owned) air carriers. This resulted in a regime which attempted to reduce the number of opportunities with which carriers would engage in competition with one another. The passenger agency program had a number of elements which were affected by this global policy.

4.2 The removal of restrictive practices from IATA facilitation programmes

- 4.2.1 In the late 1970s, the U.S. began to deregulate its domestic airline markets and later to develop somewhat more liberal arrangements toward international air transport. (It is somewhat ironic that today the U.S. is considered to be the main obstacle to achievement of a global open air transport regime, embracing a multilateral GATS framework for trade in services.) As the 1980s progressed, a number of other nations, including Australia, followed suit. This included privatisation of airlines, deregulation of domestic markets, and pursuing liberal bilateral international air transport arrangements.
- 4.2.2 Australia deregulated its airlines in November 1990. Australian was merged into Qantas in February 1992, and Qantas was privatised in two stages from March 1993 and July 1995. This process involved a major investment by a foreign carrier (British Airways), and raising the foreign ownership limit on international carriers designated by Australia to 49%. International air services were opened up to multiple designation with the International Air Services Commission Act of 1992.



- 4.2.3 All of these liberalising moves were made subsequent to the initial (1984) IATA passenger agency system authorisation by the predecessor of the ACCC.
- 4.2.4 As nations began to liberalise their air transport markets it was no longer necessary that the primary facilitation role of IATA also contain restrictive practices to protect national carriers.
- 4.2.5 As governments eliminated their requirements for national carrier protection, IATA programmes have rapidly responded.
- 4.2.6 The pace at which these changes occurred varied throughout the world. The result has been the development of separate IATA programme elements in different regions of the world. Some nations continue to require restrictive practices, and other nations seeking to develop air services to them have been compelled to comply. In other regions, however, the opportunity to eliminate restrictive practices has been aggressively pursued by IATA and its carrier members.
- 4.2.7 The speed of response should be noted in Australia's case. Within 13 months of the deregulation provisions of November 1990, and just prior to the *International Air Services Commission Act* and prior to the privatisation of Qantas, the new IATA Resolution 816 was implemented. The former resolution contained many of the restrictive practices required by previous governments while the latter embraced a *significant* liberalisation and a resulting focus primarily on the benefits of industry facilitation services.

4.3 Anti-competitive elements of the earlier IATA agency program have been removed in Australia

- 4.3.1 Australia is a market where IATA has aggressively removed restrictive practices as it privatised two of its three major carriers (Australian and Qantas), deregulated its domestic markets, and pursued liberal bilateral air service agreements where possible.
- 4.3.2 The IATA passenger agency programme had a number of restrictive practices at the time of its last authorisation in Australia (1984), a time when Qantas and Australian were government owned, Australia had generally restrictive bilateral air services agreements, and the domestic market still contained many restrictive elements.
- 4.3.3 Among the restrictive practices in effect in 1984 were:
- IATA air carriers were required to utilise only IATA authorised agencies.
 - All IATA air carriers were required to pay all agents the same fixed commission.
 - Agencies were required to fully participate in all IATA agency programmes.



- 4.3.4 Since 1984, the IATA travel agency programme has evolved considerably. It is covered by a special resolution (816) for the Austral-Asia region, differentiating it from other regions with more restrictive practices. This new resolution was implemented very quickly as Australia revised its national airline policy.
- 4.3.5 Many of the restrictive practices contained in the previous programme have largely been eliminated. Notable among these are:
- 4.3.6 Agencies are not required to participate in all IATA agency programme elements. For example, a program is currently available for domestic only authorisation, and 277 travel agent locations in Australia participate in it. The long term economics of such a small program may be questionable, but its current existence demonstrates that IATA's agency program demonstrates flexibility to meet agency needs.
- 4.3.7 The IATA passenger agency program in Australia does not have fixed commission rates. Carriers and agents are free to negotiate rates and compensation schemes as they choose.
- 4.3.8 Passenger agencies in Australia may apply for the ability to use the BSP, even if they are domestic only participants, as now provided for in IATA Resolution 850 section 7.2.
- 4.3.9 The current IATA passenger agency programme in Australia retains its transparent governance and its high level of industry facilitation and cost reduction. This is now done without mandatory fixed commissions.
- 4.3.10 It has evolved into pure industry facilitation and cost reduction program in Australia, offering consumers a competitive choice of agency and airline, without the restrictive practices which had been required previously by governments.



5.0 Australian Air Transport Without an IATA Passenger Agency Programme

5.1 Introduction

5.1.1 Finally, I would like to offer my opinion as to what the Australian air transport system would look like without the IATA passenger agency programme.

5.2 Industry costs would be higher

5.2.1 First, if there were no industry wide passenger agency authorisation system, industry costs would collectively be much higher.

5.2.2 As each of the 53 air carriers which serve Australia undertakes to evaluate and administer agency relationships with the existing 2,305 IATA agencies in Australia, there would be significant replication of costs. This would raise airline industry costs and also increase the costs to agencies in the form of application fees and compliance/audit costs.

5.2.3 Higher agency programme costs would be reflected eventually in higher prices to air travellers. This may be in the form of higher ticket prices. Alternatively, it may be reflected in increased incidence and level of agency service charges being assessed on their clients.

5.3 Some consolidation can be expected in the agency industry

5.3.1 Because the costs to operate individual authorisations would be higher, as an economist, I would predict that fewer agencies would be authorised. In particular, the air carriers would likely perceive the benefits of authorising small agencies to be marginal, given that the cost of processing an agency application is relatively independent of agency size.

5.3.2 Large agencies would be able to spread the cost of agency application and compliance costs over a larger volume of travel, resulting in a price advantage relative to smaller agencies.

5.3.3 This in turn could result in some consolidation of the agency sector in Australia as small agencies would find they are no longer able to compete.

5.4 Passengers would have fewer choices

5.4.1 As carriers authorise fewer agencies, passengers would have fewer choices of agencies.

5.4.2 Some carriers may withdraw from the Australian market due to the higher costs of operating an agency program. Marginal air services are affected by small changes in the number of



seats sold. If this takes place, consumers would have a narrower range of competitive services.

5.5 There would be reduced sales of inbound and outbound Australian services

- 5.5.1 The international carriers with relatively small presence in the Australian market could be expected to reduce their sales, as they will likely work with fewer Australian based agencies. Because of the thin operating margins in competitive air transport markets, this could result in some carriers cancelling services to Australia.
- 5.5.2 As well, there are a number of carriers which do not directly serve Australia, but which sell tickets via the IATA interline programme. These carriers can be expected to cease selling the Australian product.
- 5.5.3 In the long term, the collective result of Australia and other countries removing authorisation of the IATA agency system would be reduced sale of inbound Australian tourism and other air products. Even for Qantas, the largest international air capacity provider to Australia, the costs of authorising 56,900 agencies worldwide would be prohibitive. It would likely confine overseas authorisations to those at its gateways. Beyond the gateways, it would rely exclusively on sales by its alliance partners, but even here this would cover only a portion of the potential inbound Australian market.
- 5.5.4 In any event, the removal of a global passenger agency authorisation program would be to favour carriers participating in the major global air carrier alliances, at the expense of the independent air carriers. The latter are especially dependent on the global facilitation roles which IATA provides. If IATA authorisation is withdrawn on a global scale then it will dramatically increase the importance of membership in one of the alliances, likely inducing or accelerating consolidation in the airline industry. The alliance carriers will have domestic members which understand and have developed relationships with their domestic agencies. It will also favour the largest and established alliances over the smaller and developing alliances.
- 5.5.5 In other words, the IATA passenger agency system is the means by which smaller carriers and carriers not directly serving Australia can easily have access to the largest possible agency network, without high cost or undue risk. In the Australian context, Star and oneWorld may be able to manage agent authorisations and rules in the absence of the IATA agency program, but other alliances (Wings, Qualifyer, Skyteam) and independents would be hard pressed to develop an extensive network of alliance-to-agency relationships.

5.6 Is there an alternative to the IATA agency programme?

- 5.6.1 The previous section argued that a multi-airline passenger agency authorisation programme reduces industry costs, supports inbound tourism and enhances competitive choices for consumers.



- 5.6.2 A question is whether an alternative multi-airline authorisation system could be developed.
- 5.6.3 This certainly is a possibility. The U.S. did require an alternative agency authorisation system to be developed.
- 5.6.4 However, the U.S. system was a special case. It was required at a time when IATA had not previously been challenged with the removal of the restrictive practices which had been *required by governments* (and still were outside of the U.S.) As well, it involved a complete handover of the existing IATA program to a new regime.
- 5.6.5 It should be noted that the new agency authorisation regime in the U.S. (IATAN), is a company operated as a wholly owned subsidiary of IATA.
- 5.6.6 As well, a BSP equivalent, ARC, exists in the United States. ARC is a co-operative owned by some of the major U.S. airlines.
- 5.6.7 With the large number of carriers serving the U.S. market, a co-operative may be an acceptable governance structure. No U.S. airline has as much as 25% of the market.
- 5.6.8 However, application of a co-operative governance structure to Australia may be a different matter and highly undesirable. With only two major carriers, such an agency program could be controlled by two very powerful air carriers, a situation unlike that which prevails in the U.S.
- 5.6.9 Today, with the removal of the restrictive practices from the IATA passenger agency program, it seems unclear what, if anything could be gained from an alternative agency programme. If the program is an alternative to the IATA system, but existing simultaneously, then costs would be duplicated with little competitive benefit. In fact, it should be observed that with the existing IATA agency programme in Australia, there has been no obstacle to the emergence of an alternative system. The market simply has chosen not to require or provide one.
- 5.6.10 If the IATA programme is handed over to a new operator, it is unclear what would be gained. Unlike the case in the US at the end of the 1970s, the restrictive practices of fixed commissions and tied selling have been removed by IATA. A transition to a new operator would seem to be cosmetic and likely would impose transition costs on both the airlines and the agencies with no benefits to consumers, carriers or agents.

5.7 The value of intermediary services by market segment

- 5.7.1 Ultimately, the issue of whether a market (airline seats) should use an intermediary for sales depends on factors such as costs of intermediaries versus airlines and value added services by the intermediaries. One must understand that the airline market is one which has different market segments.



- 5.7.2 Historically, carriers have had higher marketing and sales costs than have travel agencies, and thus have generally actively sought to have agents sell their seats. There are some differences to this general rule in a few markets.
- 5.7.3 Airlines operate a few shuttle services, largely in short haul high density markets. Here an intermediary provides limited value added services. Most regular travellers in the Sydney-Melbourne market know the schedules of the various competitors and may know the fare offerings. Hence direct airline sales may be adequate, if not preferable.
- 5.7.4 On-line non-shuttle services, including "on-alliance" services, the carrier may be the more efficient provider of information, although intermediaries can serve an important role as well. The issue of intermediation will likely focus on the relative cost of providing services.
- 5.7.5 Note that the emerging internet sale of airline services are likely to be focused on the above two market segments.
- 5.7.6 For complex itineraries, the consumer is likely less knowledgeable of competitive choices and an agent can provide significant value. Here it is important that agents be able to sell the services of as many airlines as possible.
- 5.7.7 Some consumers wish to purchase packages of travel services, not only air transport but also hotel and other services. An intermediary provides an important service for these consumers.
- 5.7.8 There is no requirement that a market must use an intermediary. The consumer is well served when the lowest cost or more effective provider is used. As well, the consumer is well served when the option of intermediation is available. The IATA agency system is very much focused on providing the consumer with the maximum choice of intermediaries.
- 5.7.9 Carriers will reflect their own costs and desirability for intermediation via the fee structure (commission) they are willing to pay to the intermediaries. Alternatively, consumers can pay directly for intermediation services if there is value for them in doing so and if the airline willingness to pay for intermediation is low.

