



INTERNATIONAL AIR TRANSPORT ASSOCIATION

Passenger Agency Programme
Application For Re-authorisation



Form B
Commonwealth of Australia
Trade Practices Act 1974 ---- Sub-section 88(1)

**AGREEMENTS AFFECTING COMPETITION:
APPLICATION FOR AUTHORISATION**

To the Australian Competition and Consumer Commission:

Application is hereby made under sub-section 88(1) of the *Trade Practices Act 1974* for an authorisation under that sub-section to give effect to a provision of a contract, arrangement or understanding which provision has the purpose, or has or may have the effect, of substantially lessening competition within the meaning of section 45 of that Act.

1. (a) Name of applicant:

International Air Transport Association
800 Place Victoria
Montreal, Quebec
CANADA

(b) Short description of business carried on by applicant

Co-ordination of procedures and arrangements for the safe and efficient movement of people and goods by air, internationally and domestically.

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

Minter Ellison
Level 9
15 London Circuit
Canberra ACT 2601
AUSTRALIA

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

The contracts, arrangements and understandings which constitute the IATA passenger agency programme, as far as it operates in Australia or applies to parties incorporated in or carrying on business in Australia¹, presently evidenced by the documents in Schedule 1.

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

International Air Transport Association and its members, present and future.

¹ Required as a consequence of *Trade Practices Act 1974* section 6.

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

See Schedule 2.

4. (a) Grounds for grant of authorisation

The grounds are that the contracts, arrangements and understandings ("Rules") for which authorisation is sought were granted authorisation by the Trade Practices Commission by Authorization No 90408 and should be re-authorised by the Commission because they are in the public interest and any anti-competitive effects are outweighed by those public benefits.

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

The facts are set out in the statements by Chris Gilbey and Dr Michael Tretheway attached and the contentions are set out below.

5. This application for authorisation may be expressed to be made also in relation to other contracts, arrangements or understandings or proposed contracts, arrangements or understandings, that are or will be in similar terms to the above-mentioned contracts, arrangements or understandings.

(a) Is this application to be so expressed?

Yes

(b) If so, the following information is to be furnished:

(i) the names of the parties to each contract, arrangement or understanding

1. For participation in the Passenger Agency Conference, participation in the General Assembly and giving effect to resolutions of the Conference and decisions of the General Assembly - IATA and the members of IATA from time-to-time.
2. For the Executive Council and all advisory committees established by the Passenger Agency Conference and the General Assembly - the participants in those consultative bodies.

(ii) the names of the parties to each other proposed contract, arrangement or understanding which names are known at the date of this application:

See Schedule 1 for the names of other parties known as at the date of this application.

6. (a) Does this application deal with a matter relating to a joint venture of the Trade Practices Act 1974?

No

(b) If so, are any other applications being made simultaneously with this application in relation to that joint venture?

N/A

(c) If so, by whom or on whose behalf are those applications being made?

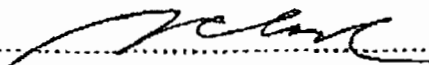
N/A

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

Russell Miller
Minter Ellison
Level 9
15 London Circuit
Canberra ACT
Australia

Dated:

Signed by/on behalf of the applicant


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Signature

Full Name: Lorne Clark
Position: Vice President, Corporate Secretary and General Counsel

SCHEDULE 1

**DOCUMENTS EVIDENCING THE CONTRACTS, ARRANGEMENTS
AND UNDERSTANDINGS WHICH CONSTITUTE THE IATA
PASSENGER AGENCY PROGRAMME, AS FAR AS IT OPERATES IN
AUSTRALIA OR APPLIES TO PARTIES INCORPORATED IN OR
CARRYING ON BUSINESS IN AUSTRALIA**

DOCUMENT	CURRENT EDITION
Passenger Agency Conference Resolutions Manual	1 December 2000
Travel Agent's Handbook - Resolution 816 Edition	1 December 2000
BSP Manual for Agents	1 December 2000
BSP Manual for Agents - Local Procedures/Information Australia	1 December 2000
BSP Data Interchange Specifications Handbook	31 January 2001
Domestic Travel Agent's Handbook - Australia	1 November 1998
IATA Settlement Systems Service Provisions - Passenger	1 January 2000

SCHEDULE 2

**IATA MEMBERS
(AS AT 1 DECEMBER 2000)**

<p>ACES (Aerolíneas Centrales de Colombia S.A.) Calle 49, No. 50-21 Edificio del Café - Pisos 30 y 34 MEDELLIN Colombia</p> <p>ADA AIR * Rruga Mine Peza TIRANA Albania</p> <p>ADRIA AIRWAYS Kuzmiceva 7 LJUBLJANA 61000 Slovenia</p> <p>AER LINGUS LTD. PO Box 180 Dublin Airport Dublin Ireland</p> <p>AERO ASIA INTERNATIONAL (PVT) * 43-J, Block-6 P.E.C.H.S. Karachi 75400 Pakistan</p> <p>AERO CALIFORNIA * Aguilles Serdan, 1995 Colonia Centro La Paz Baja California Sur, 23000 México</p> <p>AERO ZAMBIA Ltd. 1st Floor, Z.N.I.B. House Dedan Kimathi Road Private Bag E717 LUSAKA Zambia</p> <p>AEROFLOT- RUSSIAN INTERNATIONAL AIRLINES 37 Leningradsky Prospekt MOSCOW 125167 Russia Federation</p> <p>AEROLINEAS ARGENTINAS S.A. Bouchard 547 - 8 BUENOS AIRES 1106 Argentina</p> <p>AEROMEXICO (Aerovías de Mexico S.A. de C.V.) * Reforma 445 -Plto 5 Col. Cauhtemoc MEXICO D.F. 6500</p>	<p>AEROMEXPRESS * Av. Texcoco s/n Esq. Av. Tahel Col. Penon de Los Baños MEXICO CITY D.F. 15620 México</p> <p>AEROPERU (Empresa de Transporte Aéreo del Perú)* Av. José Pardo 601, Miraflores LIMA 18 Peru</p> <p>AEROSUR (Comp. Boliviana de Transp. Aéreo Privado) ** Calle Colón Esq. Avenida Ircia C.P. No. 3104 Santa Cruz Boiivia</p> <p>AEROSVIT AIRLINES * 58-A Schevchenka Boulevard Kiev 25032 Ukraine</p> <p>AFFRETAIR (PVT) LTD. * & *** P.O. Box.655 HARARE Zimbabwe</p> <p>AIR AFRIQUE 13 Avenue Joseph Anoma Boite postale 3927 ABIDJAN Côte d'Ivoire</p> <p>AIR ALGERIE 1, place Maurice Audin ALGIERS Algeria</p> <p>AIR AUSTRAL * BP 611 ST. DENIS, CEDEX 97473 France</p> <p>AIR BALTIC CORPORATIONS SIA Riga Airport RIGA, LV-1053 Latvia</p> <p>AIR BOSNA * Cemalusa 6 71000 SARAJEVO Bosnia & Herzegowina</p>
<p>AIR BOTSWANA CORP. * Sir Seretse Khama International Airport Head Office Building, P.O. Box 92</p>	<p>AIR LIBERTE S.A. * 3, rue du Pont des Halles RUNGIS, Cedex 94656</p>

- * Elected not to participate in Tariff Coordinating Conferences
** Associate Member
*** Freight only

<p>GABORONE Botswana</p> <p>AIR CALEDONIE INTERNATIONAL * 8, rue Frédéric Surteau BP 3736 NOUMEA New Caledonia</p> <p>AIR CANADA P.O. Box 14000 Station Airport Dorval Quebec H4Y 1H4 Canada</p> <p>AIR CHINA INTERNATIONAL CORP. Capital International Airport BEIJING, 100621 The People's Republic of China</p> <p>AIR EUROPA (Air Espana, S.A.) * Gran Via Asima 23 Poligono Son Castello PALMA DE MALLORCA Balears E-07009 Spain</p> <p>AIR FRANCE 45, rue de Paris ROISSY C.D.G., Cedex 95747 France</p> <p>AIR GABON B.P. 2206 LIBREVILLE Gabon</p> <p>AIR JAMAICA EXPRESS LIMITED ** P.O. Box 34 KINGSTON 10 Jamaica</p> <p>AIR JAMAICA LTD. * 72-76 Harbour Street KINGSTON Jamaica</p> <p>AIR KAZAKSTAN * 111 Zhibek Zholy Street Almaty 480004 Republic of Kazakstan</p> <p>AIR KORYO * Sunan District Pyongyang City Korea, D.P.R. of</p> <p>AIR NIUGINI Air Niugini House, Jacksons Airport P.O. Box 7186 BOROKO Papua New Guinea</p> <p>AIR NOSTRUM L.A.M.S.A. *</p>	<p>France</p> <p>AIR LITTORAL * Le Mille 'naire II 417, rue Samuel Morse MONTPELLIER, Cedex 34961 France</p> <p>AIR MADAGASCAR * 31, avenue de l'Indépendance ANTANANARIVO 101 Madagascar</p> <p>AIR MALAWI LIMITED Robins Road P.O. Box 84 BLANTYRE Rep. of Malawi</p> <p>AIR MALDIVES LIMITED * Ameeru Ahmed Magu MALE 35935 Rep. of Maldives</p> <p>AIR MALTA COMPANY LIMITED Luqa Airport LUQA 1 Malta</p> <p>AIR MARSHALL ISLANDS INC. * P.O. Box 1319 MAJURO 96960 Marshall Islands</p> <p>AIR MAURITIUS * 5 President John Kennedy Street P.O. Box 441 PORT LOUIS Mauritius</p> <p>AIR MOLDOVA INTERNATIONAL * Hotel 4th Floor Chisinau Airport Chisinau MD 2026 Moldova</p> <p>AIR NAMIBIA * PO Box 731 WINDHOEK Namibia</p> <p>AIR NEW ZEALAND LIMITED Quay Tower, 29 Customs Street West, Private Bag 90027 AUCKLAND New Zealand</p> <p>ALBANIAN AIRLINES MAK S.H.P.K. * R.R. "Mane Peze" P.Z. TIRANA Albania</p> <p>ALITALIA - LINEE AEREE ITALIANE S.P.A.</p>
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<p>Avenida Francisco Valdecabres, 31 VALENCIA, Manises 46940 Spain</p> <p>AIR PACIFIC LIMITED * Private Mail Bag NADI Airport Fiji Islands</p> <p>AIR SASK AVIATION 1991 ** Box 320 LA RONGE Saskatchewan, S0J 1L0 Canada</p> <p>AIR SEYCHELLES * Victoria House P.O. Box 386 MAHE Seychelles</p> <p>AIR TAHITI ** Box 314 Boulevard Pomare PAPEETE, Tahiti French Polynesia</p> <p>AIR TANZANIA CORPORATION ATC House, Ohio Street P.O. Box 543 DAR-ES-SALAAM United Republic of Tanzania</p> <p>AIR UKRAINE * 14, avenue Peremogy KIEV 252135 Ukraine</p> <p>AIR VANUATU (OPERATIONS) LIMITED * P.O. Box 148 PORT VILA, Vanuatu</p> <p>AIR ZIMBABWE CORPORATION P.O. Box APOSTOLOPOULOS 1 Harare Airport HARARE Zimbabwe</p> <p>AIR-INDIA Air-India Building, 16th Floor Nariman Point BOMBAY 400 021 India</p> <p>ALASKA AIRLINES INC. * 19300 Pacific Highway South SEATTLE, Washington 98188 U.S.A.</p> <p>AOM FRENCH AIRLINES (AOM - Minerve S.A.) * Strategic Orly 108 13-15, rue du Pont des Halles RUNGIS, Cedex 94526 France</p> <p>ARIANA AFGHAN AIRLINES P.O. Box 76 KABUL</p>	<p>Allitalia Centro Direzionale Viale Alessandro Marchetti, 111 ROMA, 148 Italy</p> <p>ALLIANCE (African Joint Air Services) * 13-15 Kimathi Avenue P.O. Box 2128 Kampala, Uganda</p> <p>ALM-ANTILLEAN AIRLINES * Hato Airport CURACAO Netherlands Antilles</p> <p>ALOHA AIRLINES, INC. ** Honolulu International Airport P.O. Box 30028 HONOLULU, Hawaii 96820 U.S.A.</p> <p>ALPI EAGLES S.p.A. * Via Monte Grappa, 20 36016 Thiene (VI) Italy</p> <p>AMERICA WEST AIRLINES INC. 4000 E. Sky Harbor Boulevard PHOENIX, Arizona 85034 U.S.A.</p> <p>AMERICAN AIRLINES INC. PO BOX 6196 Fort Worth DALLAS, Texas 76155 U.S.A.</p> <p>ANA (All Nippon Airways Co. Ltd.) Kasumigaseki Building 2-5 Kasumigaseki 3-chome/Chiyoda-ku TOKYO 100 Japan</p> <p>ANSETT AUSTRALIA 501 Swanston Street MELBOURNE Victoria,3001 Australia</p> <p>ANSETT INTERNATIONAL 501 Swanston Street MELBOURNE Victoria,3001 Australia</p> <p>AVIATECA S.A. * Avenida Hincapie 12-22, Zona 13 Guatemala Guatemala</p> <p>AZERBAIJAN AIRLINES (Azerbaijan Hava Yollari) * Prospect Azadlyg, 11 BAKU 370000 Azerbaijan, Rep. of</p> <p>BALKAN BULGARIAN AIRLINES Sofia Airport</p>
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<p>Afghanistan</p> <p>ARKIA ISRAELI AIRLINES LTD. * Dov Airport P.O. Box 39301 TEL AVIV 61392 Israel</p> <p>ARMENIAN AIRLINES * Zvartnots Airport YEREVAN, 375042 Republic of Armenia</p> <p>ATLAS AIR, INC. * 538 Commons Drive Golden, Colorado 80401 U.S.A.</p> <p>AUGSBURG AIRWAYS GmbH * Flughafenstrasse 6 AUGSBURG, 86169 Germany</p> <p>AUSTRAL LINEAS AEREAS S.A. ** Av. Leandro N. Alem 1134 BUENOS AIRES 1001 Argentina</p> <p>AUSTRIAN AIRLINES Fontanastrasse 1 Postfach 50 VIENNA 1107 Austria</p> <p>AVENSA (Aerovías Venezolanas, S.A.) * Urb. Prados des Este, Av. Rio Caura Torre Humboldt PH mezzanina, Ap. postal 943 Torre el Chorro, Piso 13, Ap. postal 947 CARACAS Venezuela</p> <p>AVIACO (Aviación y Comercio S.A.) * Maudes No. 51, Edificio Minister MADRID E-28003 Spain</p> <p>AVIANCA (Aerovías Nacionales de Colombia S.A.) Centro Administrativo Avenida Eldorado No. 93-30 BOGOTA Colombia</p> <p>CANADIAN AIRLINES INTERNATIONAL LTD 700 - 2nd Street S.W. Suite 2800 CALGARY Alberta, T2P 2W2 Canada</p> <p>CARGOLUX AIRLINES INTERNATIONAL ** & *** Luxembourg L-2990 Luxembourg</p> <p>CATHAY PACIFIC AIRWAYS LTD</p>	<p>SOFIA 1540 Bulgaria</p> <p>BELAVIA (Belarusian Airlines) * Nemiga str. 14 Minsk 220004 Belarus, Rep. of</p> <p>BELLVIEW AIRLINES LTD. * 31/37 Toyin Street, Ikeja, PO Box 6571 Water Parks Plaza (2nd Floor) Lagos Nigeria</p> <p>BIMAN BANGLADESH AIRLINES * Motijheel C/A DHAKA 1000 Bangladesh</p> <p>BRAATHENS S.A.F.E. * Oksenoyveien 3 P.O. Box 55 OSLO Luffthavn 1330 Norway</p> <p>BRITISH AIRWAYS Pic Waterside P.O. Box 365, Harmondsworth UB7 OGB United Kingdom</p> <p>BRITISH MIDLAND AIRWAYS LIMITED * Donington Hall CASTLE DONINGTON Derby DE74 2SB United Kingdom</p> <p>BWIA International Airways Ltd. * P.O. Box 604 Golden Grove Road PIARCO Trinidad</p> <p>CAMEROON AIRLINES 3, av. du Général de Gaulle B.P. 4092 DOUALA Cameroon</p> <p>CHINA YUNNAN AIRLINES * Kunming Airport KUNMING Yunnan 650200 People's Republic of China</p> <p>CITYJET * The Mezzanine Terminal Building DUBLIN Airport Ireland</p> <p>COMAIR (PTY.) LTD. * P.O. Box 7015 BONAERO PARK</p>
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Swire House, 5th Floor 9, Connaught Road Central HONG KONG SAR, China, P.R. of	Transvaal 1622 South Africa
CESKE AEROLINE/CZECH AIRLINES (CSA) Head Office Airport Ruzyně PRAGUE 6, 160 08 Czech Republic	COMPAGNIE AERIENNE CORSE MEDITERRANEE * Aéroport de Campo Dell'Oro B.P. 505 AJACCIO 20186 France
CHINA EASTERN AIRLINES * Hongqiao International Airport SHANGHAI, 200335 People's Republic of China	COMPAGNIE AFRICAINE D'AVIATION - C.A.A. ** Edifice du GAP Boulevard du 30 Juin, Building GAP KINSHASA Democratic Republic of the Congo
CHINA NORTHERN AIRLINES 3-1 Xiaoheyuan Road Dadong District, Shenyang Liaoning, 110043 People's Republic of China	CONTINENTAL AIRLINES INC. * P.O. Box 4607 HOUSTON, Texas 77210-4607 USA
CHINA NORTHWEST AIRLINES 2 Fenhao Road Xian Shaanxi, 710082 People's Republic of China	CONTINENTAL MICRONESIA, INC. * P.O. Box 8778 TAMUNING Territory of Guam 96931, U.S.A.
CHINA SOUTHERN AIRLINES Baiyun International Airport GUANGZHOU City Guangzhou Province 510405 People's Republic of China	COPA (Compania Panamena de Aviacion S.A.) * Apartado 1572 Av. Justo Arosemena y Calle 39 PANAMA City Republic of Panama
CHINA SOUTHWEST AIRLINES Shuangliu Airport CHENGDU Sichuan 610202 People's Republic of China	CORSAIR (Corse Air International) 2 avenue Charles Lindbergh Rungis Cedex 94636 France
CHINA XINJIANG AIRLINES * 46 Yingbin Road URUMQI Xinjiang 830016 People's Republic of China	CROATIA AIRLINES Savska Cesta 41 ZAGREB 10000 Croatia
CROSSAIR AG for European Regional Air Transport P.O. Box BASEL, CH-4002 Switzerland	CRONUS AIRLINES * 500 Vouliagmenis Avenue 174 56 Alimos ATHENS Greece
CUBANA (Empresa Consolidada Cubana de Aviacion) Calle 23 No 64 La Rampa LA HABANA 10400 Cuba	ECUATORIANA (Ecuadoriana de Aviacion S.A.) * Colon y Reina Victoria Torres Almagro - Mezzanine P.O. Box 505 QUITO Ecuador
CYPRUS AIRWAYS LIMITED 21 Alkeou Street 2404 Engomi NICOSIA Cyprus	EGYPTAIR Cairo International Airport CAIRO Egypt
	EL AL ISRAEL AIRLINES LIMITED P.O. Box 41 Ben-Gurion Intl Airport TEL AVIV 70 100 Israel

<p>DEBONAIR AIRWAYS LTD * 146 Prospect Way London Luton Airport Luton Bedfordshire LU2 9BA United Kingdom</p> <p>DELTA AIR LINES, INC. PO Box 20706 Hartsfield Atlanta Int'l Airport ATLANTA Georgia 30320 United States of America</p> <p>DEUTSCHE BA LUFTFAHRTGESELLSCHAFT GmbH * Wartungsallee 13 München Flughafen, 85356 Germany</p> <p>DRAGONAIR (Hong Kong Dragon Airlines Ltd.) * 22nd Floor, Devon House Taikoo Place, 979 Kings Road QUARRY BAY, Hong Kong SAR, China, P.R. of</p> <p>EAGLE AVIATION LTD. ** P.O. Box 93926 Mombasa Kenya</p> <p>EAST WEST AIRLINES ** Sophia Building 18 New Kantwadi Road off Perry Cross Rd BOMBAY Bandra (West), 400-050 India</p> <p>EAT (European Air Transport) Building 4- 5 Brussels National Airport ZAVENTEM 1930 Belgium</p> <p>FLIGHT WEST AIRLINES PTY. LTD. ** P.O. Box 1126 EAGLE FARM Queensland 4007 Australia</p> <p>GARUDA INDONESIA Jalan Merdeka Selatan No. 13 P.O. Box 1164 JAKARTA 10110 Indonesia</p> <p>GB AIRWAYS LTD. * Iain Stewart Centre Beehive Ring Road GATWICK Airport West Sussex RH6 OPB United Kingdom</p> <p>GHANA AIRWAYS CORP. Ghana Airways House</p>	<p>EMIRATES * P.O. Box 686 DUBAI United Arab Emirates</p> <p>ESTONIAN AIR * 2 Lennujaama Str. TALLINN EE0011 Estonia</p> <p>ETHIOPIAN AIRLINES CORPORATION P.O. Box 1755 Bole Airport ADDIS ABABA Ethiopia</p> <p>EUROPEAN AIR TRANSPORT * Building 4-5 Brussels National Airport ZAVENTEM 1930 Belgium</p> <p>EUROWINGS AG * Flughafenstrasse 21 DORTMUND 44319 Germany</p> <p>FALCON AVIATION AB ** P.O. Box 36 MALMO-STURUP S-230 32 Sweden</p> <p>FEDEX (FEDERAL EXPRESS CORPORATION) *** 1980 Nonconnah Boulevards MEMPHIS Tennessee 38132 USA</p> <p>FINNAIR OY Tietatie 11A Helsinki Airport HELSINKI 00101 Finland</p> <p>HUNTING CARGO AIRLINES ** & *** East Midlands Airport Building 101 CASTLE DONINGTON Derbyshire DE7 2SA United Kingdom</p> <p>IBERIA (Líneas Aéreas de España S.A.) 130 Calle Velazquez MADRID 28006 Spain</p> <p>ICELANDAIR Reykjavik Airport REYKJAVIK 101 Iceland</p> <p>INDIAN AIRLINES LIMITED</p>
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White Avenue, P.O. Box 1636 ACCRA Ghana	Airlines House 113 Gurdwara Rakabganj Road NEW DEHLI 110001 India
GILL AVIATION Ltd ** New Aviation House Newcastle International Airport NEWCASTLE Northumberland NE13 8BT United Kingdom	INTER AIR (Inter Aviation Services (Pty) Ltd.) * Private Bag 8 Johannesburg International Airport JOHANNESBURG 1627 South Africa
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HAZELTON AIRLINES ** Orange Road CUDAL N.S.W. 2864 Australia	IRAQI AIRWAYS * Saddam Intl Airport BAGHDAD Iraq
HEMUS AIR * 1540 Sofia Airport Sofia Republic of Bulgaria	JAMAHIRIYA LIBYAN ARAB AIRLINES * P.O. Box 2555 Haifi Street TRIPOLI, Libyan Arab Jamahiriya, Libya
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JAT (Jugoslovenski Aerotransport) Ho Si Minova 16 NOVI BEOGRAD YU-11070 Federal Republic of Yugoslavia	L.B. LIMITED * Princess Tower, West Sunrise P.O. F207 FREEPORT Grand Bahama Bahamas
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KENDELL AIRLINES ** 86 Baylis Street P.O. Box 78 WAGGA WAGGA	LADECO CARGO ** & *** Aeropuerto Internacional C.A.M.B. Casilla 42 Interior, Pudahuel SANTIAGO

<p>N.S.W. 2650 Australia</p> <p>KENYA AIRWAYS LTD. PO Box 19002 NAIROBI Kenya</p> <p>KLM ROYAL DUTCH AIRLINES Amsterdamseweg 55 AMSTELVEEN 1182 GP Netherlands</p> <p>KLM uk LTD. Stansted House STANSTED Airport Essex CM24 1QT United Kingdom</p> <p>KOREAN AIRLINES CO. LTD. 1370, Gong Hang-dong Kang Seo-gu SEOUL Korea</p> <p>KUWAIT AIRWAYS CORPORATION P.O. Box 394 Kuwait International Airport SAFAT 13004 Kuwait</p> <p>LOT (Polskie Linie Lotnicze) Al. Jerozolimskie 65/79 WARSAW 00-697 Poland</p> <p>LTU (Lufttransport Unternehmen GmbH & Co.) * Flughafen, Halle 8 DUSSELDORF D-40474 Germany</p> <p>LUFTHANSA (Deutsche Lufthansa A.G.) Von-Gablenz-Strasse 2-6 COLOGNE 50664 Germany</p> <p>LUFTHANSA CARGO AG * & *** Frachthof 3 FRANKFURT Am Main 6000 Germany</p> <p>LUFTHANSA CITYLINE GmbH ** Am Holzweg 26 Postfach 11 11 KRIFTEL 65825 Germany</p> <p>LUXAIR - SOCIETE LUXEMBOURGEOISE DE NAVIGATION AERIENNE Aéroport de Luxembourg LUXEMBOURG 2987 Luxembourg</p> <p>MAERSK AIR A/S *</p>	<p>Chile</p> <p>LADECO S.A. * Avenida Libertador Bernardo O'Higgins, 107 SANTIAGO Chile</p> <p>LAM (Linhae Aereae de Moçambique) Mavalane Airport P.O. Box 2060 MAPUTO Mozambique</p> <p>LAN-CHILE (Linea Aerea Nacional - Chile S.A.) Estado 10, Piso 13 P.O.Box 147-D SANTIAGO Chile</p> <p>LANDAIR INTERNATIONAL AIRLINES ** & *** Greeneville Municipal Airport 512 Airport Road, P.O. Box 1058 GREENEVILLE, Tennessee 37743 U.S.A.</p> <p>LAPA (Lineas Aereas Privadas Argentinas S.A.) * Avenida Santa Fe 1970 2 Piso - CP 1123 Buenos Aires Argentina</p> <p>LAUDA AIR LUFTFAHRT AG. P.O. Box 56 VIENNA Airport, A-1300 Austria</p> <p>LITHUANIAN AIRLINES A. Gustacio 4 VILNIUS 2038 Lithuania</p> <p>MAT (Macedonian Airlines) * Bul. Partizanski Odredi 17a Skopje, 91000 Macedonia (FYROM)</p> <p>MEA (Middle East Airlines Airliban) Beirut International Airport P.O. Box 206 BEIRUT Lebanon</p> <p>MERIDIANA S.p.A. * Zona Industriale A OLBIA/SS I-07026 Italy</p> <p>MERPATI NUSANTARA AIRLINES * Pelni Building Jalan Angkasa JAKARTA 10720 Indonesia</p> <p>MEXICANA (Compania Mexicana de Aviacion SA de CV) *</p>
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<p>Copenhagen Airport South DRAGOER DK-2791 Denmark</p>	<p>Xela 535, Pliso 14 Coi del Valle, P.O. Box 12-813 MEXICO D.F. 3100 México</p>
<p>MAERSK AIR LTD. * 2245-49 Coventry Road BIRMINGHAM B26 3NG United Kingdom</p>	<p>MIAT MONGOLIAN AIRLINES * Airport Buyant Ukhoo ULAANBAATAR 34 Mongolia</p>
<p>MALAYSIA AIRLINE SYSTEM BERHAD * 33rd Floor, Bangunan MAS Jalan Sultan Ismail KUALA LUMPUR 50250 Malaysia</p>	<p>MOUNT COOK GROUP LTD ** 47 Riccarton Road P.O. Box 4644 CHRISTCHURCH New Zealand</p>
<p>MALEV (Hungarian Airlines Public Ltd.Co.) Limited Company (MALEV p.l.c.) Roosevelt tér 2 BUDAPEST V, H-1051 Hungary</p>	<p>NEPC Airlines ** G.R. Complex 407 & 408 Anna Salai MADRAS Nandanam 600 035 India</p>
<p>MALMO AVIATION SCHEDULE AB ** P.O. Box 37 Malmö S-201 20 Sweden</p>	<p>NIGERIA AIRWAYS LIMITED Airways House, Murtala Mohammed Airport P.O. Box 136 LAGOS Nigeria</p>
<p>MANX AIRLINES LIMITED * Isle of Man (Ronaldsway) Airport BALLASALLA Isle of Man IM9 2JE United Kingdom</p>	<p>NIPPON CARGO AIRLINES (NCA)*&*** Shin-Kasumigaseki Building 10F 3-2, Kasumigaseki 3-chome TOKYO Chiyoda-Ku 100 Japan</p>
<p>OLYMPIC AIRWAYS S.A. 96 Syngrou Avenue ATHENS GR-117 41 Greece</p>	<p>NORTHWEST AIRLINES INC. 501 Northwest Drive M.S. B4940 ST. PAUL, Minnesota 55111-3034 U.S.A.</p>
<p>PACIFIC AIRWAYS CORPORATION ** 3110 Domestic Airport Road, MIA Pasay City Metro Manila 1300 Philippines</p>	<p>REGIONAL AIRLINES * Aéroport Nantes Atlantique 44340 Bouguenais France</p>
<p>PAN AM (Pan American World Airways Inc.) * 9300 N.W. 36th Street MIAMI Florida 33178 United States of America</p>	<p>RIGA AIRLINES * 1 Melluzu iela 1 RIGA LV 1067 Latvia</p>
<p>PHILIPPINE AIRLINES INC. * 5th Floor, PAL Building 1 Legaspi Street, Legaspi Village MAKATI, Metro Manila Philippines</p>	<p>ROYAL AIR MAROC Aéroport Casablanca-Anfa CASABLANCA Morocco</p>
<p>PIA (Pakistan International Airlines Corp.) PIA Building Karach Civil Airport KARACHI 11 Pakistan</p>	<p>ROYAL BRUNEI AIRLINES * RBI Plaza Jalan Sultan BANDAR SERI BEGAWAN 1907 2085 Brunei</p>
<p>PLUNA (Lineas Aereas Uruguayas S.A.) Puntas de Santiago C.P. 11500 MONTEVIDEO 1604</p>	<p>ROYAL JORDANIAN</p>

Uruguay	P.O. Box 302 AMMAN Jordan
POLYNESIAN AIRLINES LTD * P.O. Box 599 APIA Samoa	ROYAL SWAZI NATIONAL AIRWAYS CORP. LTD. * P.O. Box 939 MANZINI Swaziland
PORTUGALIA — COMP. PORTUGUESA DE TRANSP. AEREOS SA Avenida Almirante Gago Coutinho, 88 LISBON P-1700 Portugal	ROYAL TONGAN AIRLINES * Private Bag 9 Post Office NUKU'ALOFA Tonga, South West Pacific
QANTAS AIRWAYS LIMITED Level 9, Building A, Qantas Centre 230 Coward Street Mascot NSW 2020 Australia	RYANAIR LIMITED * Corporate Head Office Dublin Airport DUBLIN, Co. Dublin, Ireland
QANTAS NEW ZEALAND ** 650 Great South Road Eilerslie Auckland New Zealand	SA AIRLINK (PTY) LTD. ** P.O. Box 7529 Bonaero Park Johannesburg 1622 South Africa
QATAR AIRWAYS CO. (W.L.L.) * 9th Floor, Almana Building, Airport Road PO Box 22550 DOHA Qatar	SAA (South African Airways) Airways Towers, Cnr Rissik & Wolmarans St. Braamfontein JOHANNESBURG 2001 South Africa
SAFAIR (PTY) Ltd. ** & *** Bonaero Drive Bonaero Park KEMPTON PARK South Africa	SABENA Avenue E. Mounierlaan 2 BRUSSELS B-1200 Belgium
SAHARA AIRLINES ** 7th Floor, 14 K.G. Marg New Delhi 110 001 India	SOLOMON AIRLINES * P.O. Box 23 Mendana Avenue HONIARA - Guadalcanal Solomon Islands
SAMARA AIRLINES Samara International Airport Samara 443025 Russian Federation	SPANAIR S.A. ** Aeropuerto de Palma, Edificio Spanair Apdo. de Correos 50086 PALMA DE MALLORCA 07000 Spain
SAS (Scandinavian Airlines System) Frösundaviks Allé 1 Solna Sweden	SRI LANKAN AIRLINES LTD. * Grindlays Bank Building 37, York Street COLOMBO 1 Sri Lanka
SATA - AIR ACORES ** Avenida Infante D. Henrique, 55 - 2 PONTA DELGADA P-9500 Açores, Portugal	SUDAN AIRWAYS CO. LTD. SDC Bldg. St 15 New Extension P.O. Box 253 KHARTOUM Sudan
SAUDIA (Saudi Arabian Airlines) P.O. Box 620 JEDDAH 21231 Saudi Arabia	SUN AIR (Bop Air (Pty) Ltd.) ** P.O. Box 166 Mafikeng BOPHUTHATSWANA Johannesburg 1627 South Africa
SEMPATI AIR * Ground Floor — Terminal Bldg. Halim Perdana Kusuma Airport JAKARTA 13610 Indonesia	

SHANGHAI AIRLINES **
212 Jiangning Road
Shanghai 200041
People's Republic of China

SIERRA NATIONAL AIRLINES *
25 Putney Street
P.O. Box 285
FREETOWN
Sierra Leone

SINGAPORE AIRLINES LIMITED *
8F Airline House
25 Airline Road
SINGAPORE 1781

SKYWAYS AB *
Box 1537
LINKOPING S-581 15
Sweden

SOCHI AIRLINES - AVIAPRIMA *
Sochi Airport
Sochi 354355
Russian Federation

TAESA (Transportes Aereos Ejecutivos S.A. de C.V.)
*
Aviacion General
Zona de Hangares /C /Numero 27
D.F. 15620
México

TAM - TRANSPORTES AEREOS DEL MERCOSUR S.A. *
Oliva 455/467
ASUNCION
Paraguay

TAM - TRANSPORTES AEREAS MERIDIONAIS S.A. **
Jardim Aeroporto
Sao Paulo - SP
4355-040
Brazil

TAM - TRANSPORTES AEREOS REGIONAIS S.A. **
Rua General Pantaleao Telles, 210
Jardim Aeroporto
Sao Paulo - SP
4355-040
Brazil

TAP — Air Portugal S.A.
Building 25
P.O. Box 50194
LISBOA, P-1704
Portugal

TAROM (Romanian Air Transport S.A.)
Soseau Bucuresti-Ploesti KM 16.5
OTOPENI Airport
Romania

TAT EUROPEAN AIRLINES
Rue Christiaan Huygens
B.P. 0237
TOURS, F-37002
France

SUNFLOWER AIRLINES LTD. **
Sunflower Hangar
P.O. Box 9452
NADI Airport
Fiji

SURINAM AIRWAYS LTD *
Coppenamestraat 136
PARAMARIBO
Republic of Surinam

SWISSAIR (Swiss Air Transport Co. Ltd.)
P.O. Box
ZURICH Airport
CH-8058
Switzerland

SYRIAN ARAB AIRLINES
P.O. Box 417
Youssef Alazmeh Square
DAMASCUS
Syrian Arab Republic

TAAG — Angola Airlines (Linha Aéreas de Angola)
Rua Missao 123
P.O. Box 79
LUANDA Angola

TACA INTERNATIONAL AIRLINES, S.A.
Edificio Caribe 2 Piso
SAN SALVADOR
El Salvador, Centro América

TRANSAERO AIRLINES
Gosnliga
Sheremetyevo Airport
MOSCOW, 103340
Russian Federation

TRANSAVIA AIRLINES (Transavia Holland B.V.) *
Triport 3
P.O. Box 7777
SCHIPHOL Airport, NL 1118 ZM
Netherlands

TRANSBRASIL (Transbrasil S.A. Linhas Aereas)
Rua General Pantaleao
Telles 40
SAO PAULO - SP, 4355
Brazil

TUNIS AIR
Boulevard 7 November
TUNIS CARTHAGE 1064
Tunisia

TURKISH AIRLINES INC.
Genel Mudurlugu
Atatürk International Airport, Yesilköy
ISTANBUL, 34830
Turkey

TWA (Trans World Airlines Inc.) *
One City Centre
515 North Sixth Street
ST. LOUIS, Missouri 63101

<p>THAI AIRWAYS INTERNATIONAL PUBLIC CO. LTD 89 Vibhavadi Rangsit Road BANGKOK 10900 Thailand</p> <p>TMA (Trans-Mediterranean Airways S.A.L.) * & *** Beirut International Airport PO Box 11/3018 BEIRUT Lebanon</p> <p>TOWER AIR INC. * Hangar 17 John F. Kennedy Intl Airport JAMAICA, New York 11430 U.S.A.</p> <p>VASP (Viaçao Aerea Sao Paulo S.A.) Praça Cmte Lineu Gomes S/N0 Edificio Sede - Aeroporto de Congonhas SAO PAULO - SP 04626-910 Brazil</p> <p>VARIG S.A. (Viaçao Aerea Rio-Grandense) Ave. Almte. Silvia de Noronha 365/387 Aeroporto Santos Dumont RIO DE JANEIRO, ZC 20021-010 Brazil</p> <p>VIRGIN ATLANTIC AIRWAYS The Office, Crawley Business Quarter Manor Royal CRAWLEY West Sussex RH10 2NU United Kingdom</p> <p>WIDEROE'S FLYVESELSKAP A/S * P.O. 131 Vollsvæien 6 LYSAKER, N-1324 Norway</p>	<p>U.S.A.</p> <p>UKRAINE INTERNATIONAL AIRLINES * 14, Prospekt Peremogy KIEV 252135 Ukraine</p> <p>UNITED AIRLINES, INC. P.O. Box 66100 O'Hare International Airport CHICAGO, Illinois 60666 U.S.A.</p> <p>UNITED PARCEL SERVICE * & *** 1400 N. Hurstbourne Parkway LOUISVILLE, Kentucky 40223 U.S.A.</p> <p>US AIRWAYS, INC. * Crystal Park Four 2345 Crystal Drive ARLINGTON, Virginia 22227 U.S.A.</p> <p>XIAMEN AIRLINES ** Gaoqi XIAMEN Fujian 361009 China</p> <p>YEMENIA YEMEN AIRWAYS P.O. Box 1183 SANA'A Yemen Republic</p> <p>ZIMBABWE EXPRESS AIRLINES * 89 Nelson Mandela Ave, Kurima House, Ground P.O. Box 5130 Harare Zimbabwe</p>
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IATA PASSENGER AGENCY PROGRAMME

**STATEMENT OF FACTS IN SUPPORT OF
APPLICATION FOR RE-AUTHORISATION**

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IATA PASSENGER AGENCY PROGRAMME STATEMENT OF FACTS IN SUPPORT OF RE-AUTHORISATION

- 1.1 The IATA passenger agency programme delivers tangible public benefits to Australia and should continue to be authorised by the Australian Competition & Consumer Commission. In 2000, the IATA passenger agency programme enabled:
- Passengers to buy over 8.8 million tickets from the travel agent of their choice in Australia for travel anywhere in the world or within Australia
 - 1,590 travel agents, large and small, to carry on business in Australia at 2,028 outlets selling tickets for travel virtually anywhere in the world on approximately 270 airlines;
 - 56,900 travel agents outlets world wide are able to sell tickets to Australia from virtually anywhere in the world;
 - Over 50 airlines who, in addition to Qantas and Ansett, operate services to and from Australia to sell tickets in the Australian market through 2,028 accredited travel agent locations spread throughout the country; and
 - Over 200 airlines who do not operate to or from Australia to sell, in Australia, tickets on their services through the 2,028 accredited travel agent locations spread throughout the country.
- 1.2 This document sets out the facts which IATA submits, together with the supporting report by independent economist Dr Michael Trethewey, provide the justification to have the agency programme authorized.
- 2. The airline industry**
- 2.1 The aviation industry makes a significant contribution to the world economy. It contributes \$US1.4 trillion in annual gross output and provides direct employment for over 3.9 million people¹. Over 1.6 billion passengers per year rely on the world's airlines for business and leisure travel².
- 2.2 The travel and tourism industry could not exist as we know it today without the aviation industry. Travel and tourism supports over 192 million jobs world-wide - about 1 out of every 12 workers in the world are employed in the travel and tourism industry³. That industry contributes about \$US3.5 trillion per annum - about 12 % of the world's gross domestic product⁴.
- 2.3 Air transport is essential to economic progress. It makes possible the rapid and efficient movement of millions of people and goods worth billions of dollars to markets around the world.

¹ IATA *Economic Benefits of Air Transport* 2000 edition

² IATA *World Air Transport Statistics* June 2000

³ IATA *Economic Benefits of Air Transport* 2000 edition

⁴ IATA *Economic Benefits of Air Transport* 2000 edition

- 2.4 Travel and tourism make a significant contribution to the Australian economy. In 1997-98 tourism provided \$25.2 billion (or 4.5%) of Australia's gross domestic product of which 21% was generated by international tourism⁵. In 1997-98 it directly employed 6% or 513,000 of the Australian workforce⁶ with up to 200,000 additional jobs forecast by 2005⁷. Australia's relative geographic isolation from most of its major tourism markets means that its tourism industry is dependant on the aviation industry. The overwhelming majority of Australia's international visitors travel by air.⁸ Australia's international tourism is forecast to increase by 7.8% by 2010⁹.
- 2.5 There are over 70 international airlines serving Australia with on-line and off-line services, 53 of which operated international scheduled passenger services to/from Australia in the year ended June 2000¹⁰. The airlines carried over 15.7 million passengers on Australian international sectors¹¹ and 26.9 million passengers within Australia¹² in 2000.
- 2.6 The airlines serving Australia on-line¹³ range from some of the world's largest airlines - British Airways and United Airlines- to some of the world's smallest airlines - Air Vanuatu and Air Niugini. Australia's major airlines - Qantas and Ansett - are both large in world terms, ranking 12th and 35th respectively in 1999¹⁴.
- 2.7 Although many of the world's airlines are large corporations, profitability has always been an issue. In 1999 the net operating profit of IATA member airlines was \$US6.5 billion on revenue of \$US281 billion - an average net margin of 2.3% or less than \$US5 per passenger. In the 1999-2000 financial year Qantas reported a net profit of \$A460 million¹⁵ (less than \$A24 per passenger) and Ansett reported a net profit of \$A138 million¹⁶ (less than \$A10 per passenger).
- 2.8 Airlines are therefore under constant pressure to ensure that the routes on which they operate return a level of profitability sufficient to justify continued services. While airlines were, in the past, reluctant to withdraw from unprofitable routes that is not now the case. Airlines will more readily move capacity off a route or withdraw completely. The recent decisions by AOM French Airlines to discontinue services to Australia and by KLM to discontinue services to Australia beyond Singapore are examples.

⁵ Australian Bureau of Statistic *Australian National Accounts: Tourism Satellite Account 1997-98*

⁶ Australian Bureau of Statistic *Australian National Accounts: Tourism Satellite Account 1997-98*

⁷ Research undertaken by Tourism Training Australia

⁸ Department of Industry Science & Tourism *Submission to Industry Commission Inquiry into International Air Services*, March 1998

⁹ Tourism Forecasting Council *Strong Outlook for Inbound Tourism 1999-2010*, 6 December 2000

¹⁰ Department of Transport & Regional Services *Air Transport Statistics International Airlines 1999-2000*. A list of those airlines is contained in Schedule 1

¹¹ Department of Transport & Regional Services *Air Transport Statistics - International Airlines*, August 2000 [figures for the year ending August 2000]

¹² Department of Transport & Regional Services *Domestic Airlines Monthly Activity Report*, 22 August 2000 [figures for year ending 30/6/2000]

¹³ An on line carrier is an airline which operates scheduled services to and from Australia. An off line carrier is an airline which offers services from some intermediate international point (eg Swissair to Zurich from Singapore).

¹⁴ IATA *World Air Transport Statistics* June 2000 - ranking based on total scheduled passenger-kilometres flown. In June 2000 Ansett Australia became part of the Air New Zealand Group, which was ranked 32nd largest in 1999. Their combined ranking in 1999 terms is 21st largest.

¹⁵ Before abnormal items but after tax. Year ending 30 June 2000.

¹⁶ Before abnormal items but after tax. Year ended 30 June 2000

3. Travel agents

- 3.1 Travel agents provide the principal method of distribution of a range of international travel products for both business and leisure travellers, including airline seats.
- 3.2 In Australia travel agents are not entitled to carry on business unless they are registered under relevant State or Territory law. There are 3,511 registered travel agents in Australia¹⁷. According to the latest Australian Bureau of Statistics figures the travel agency industry employed 24,451 people as at 30 June 1997¹⁸. There are no available statistics on the level of employment in accredited agencies in Australia but 9,670 staff of accredited agencies hold IATA/UFTAA travel agent identity cards¹⁹.
- 3.3 IATA accredits travel agents that meet neutral and transparent criteria and allows them access to the credit facilities that the IATA Passenger Agency Programme provides. While IATA encourages travel agents to become accredited they do not have to do so in order to carry on business. The following table indicates the number of IATA accredited travel agent locations in Australia.

Table 1
Travel agent locations - Australia (other than Northern Territory)

	1998	1999	2000
<i>IATA accredited international agent locations</i>	1,893	1,924	2,028
<i>DAPA accredited domestic only agent locations</i>	424	321	277
<i>Non-IATA/DAPA accredited agent locations</i>	2,582	2,657	2,606
<i>Total²⁰</i>	4,899	4,902	4,911

- 3.4 There are two levels of IATA accreditation in Australia. In addition to the IATA accreditation programme for international travel, since 1990 agents have also been able to participate in an IATA accreditation programme for domestic travel. The Domestic Agency Programme Australia (**DAPA**) is based on the full IATA international accreditation system and the criteria are almost identical. Very few agents have applied for DAPA accreditation in recent years as the similarity in criteria means that those who can obtain full IATA accreditation do so instead, and many originally in the programme have since converted to full accreditation. IATA continues to operate DAPA for the benefit of those agents who only sell domestic travel. DAPA is further explained in section 30.
- 3.5 Like the airlines, the size of travel agencies varies significantly. Although the overwhelming number of travel agents are small businesses, there is a growing trend towards larger travel agents securing much of the business. The latest Bureau of Statistics figures indicate that 97% of agents employed less than 20 people and accounted for only 45% of industry income, while the 19 agents employing 100 or more people accounted for 37% of industry income.²¹

¹⁷ Combined figures from the Northern Territory Department of Industries and Business for the Northern Territory and the Travel Compensation Fund (<http://www.tcf.org.au>) for the rest of Australia.

¹⁸ Australian Bureau of Statistics August 1998, *Travel Agency Services Industry, Australia, 1996-97*

¹⁹ Full-time employees of accredited agents engaged in the promotion and sale of travel and with 12 months experience with that or another accredited agent are eligible for the IATA/UFTAA travel agent ID card.

²⁰ Figures do not include non-accredited agent locations in the Northern Territory

²¹ Australian Bureau of Statistics August 1998, *Travel Agency Services Industry, Australia, 1996-97*

- 3.6 While most travel agents in Australia sell airline tickets direct to the public, some only wholesale tickets to other travel agents. This latter type of agent is generally referred to as a consolidator.
- 3.7 The following table provides an overview of the major travel agencies in Australia.

Table 2
Major travel agents - Australia - Overview

<i>Agent</i>	<i>Description</i>	<i>Outlets</i>
<i>Flight Centre Ltd</i>	Listed public company worth over \$A2 billion and Australia's largest retail agency ²²	350 ²³
<i>United Travel Agents Group Pty Ltd (UTAG)</i>	Buying group with turnover in excess of \$A1.3 billion	Over 400 ²⁴
<i>Concorde International Travel Limited</i>	One of Australia's largest wholesale travel agents with a turnover exceeding \$A1.2 billion in 2000 ²⁵	17
<i>Harvey World Travel Limited</i>	Listed public company operating retail agency franchise network with after tax operating profit of \$A3.1 million in 2000 ²⁶	Over 410 ²⁷
<i>American Express Travel</i>	A division of one of the world's largest financial services corporations	77

- 3.8 The total turnover of travel agents in Australia was estimated to be over \$A8.5 billion in 1996-97²⁸. The IATA Billing & Settlement Plan (BSP) Australia, processed over 15.5 million tickets accounting for over \$A8 billion in gross revenue from the sale of airline tickets by IATA accredited agents in 2000. In the calendar year 1997 the BSP Australia turnover was \$US3.2 billion.
- 3.9 The IATA Passenger Agency Programme provides a broad geographic spread of travel agents around Australia, as demonstrated in the following table:

Table 3
Accredited locations - Australia - geographic spread

	<i>Capital city</i>	<i>Suburbs</i>	<i>Other cities</i>	<i>Country</i>
<i>ACT</i>	100%	N/A	N/A	N/A
<i>NSW</i>	23%	49%	4%	24%
<i>Victoria</i>	18%	59%	5%	18%
<i>Queensland</i>	15%	28%	14%	43%
<i>Western Australia</i>	26%	57%	N/A	17%
<i>South Australia</i>	38%	47%	N/A	15%
<i>Tasmania</i>	22%	20%	12%	46%
<i>Northern Territory</i>	50%	N/A	10%	40%

²² *The Australian Financial Review* 7 February 2001

²³ *The Sydney Morning Herald* 5 August 2000

²⁴ <http://www.utag.com.au>

²⁵ Concorde International Travel Limited Financial report 31 March 2000

²⁶ Australian Stock Exchange media release 21 November 2000

²⁷ <http://www.harveyworld.com.au> and *Traveltrade* 10 January 2001 (figure includes 65 Thomas Cook outlets acquired from 1 January 2001)

²⁸ Australian Bureau of Statistics August 1998, *Travel Agency Services Industry, Australia, 1996-97*

- 3.10 The average amount of credit extended by the airlines to accredited agent locations, being the average amounts billed to those locations for sales each remittance period (after deduction of commission and refunds), in 2000 was \$40,708²⁹. The average period over which agents were extended this credit was 17.5 days.

4. The bilateral system

- 4.1 Since its advent in the 1930's, international air travel has always been closely controlled by governments. The right to fly between sovereign nations is not a free right. Under the 1944 *Chicago Convention* nations reserved the right to approve or disapprove airlines of other nations operating to or over their sovereign territory.
- 4.2 As a consequence the right to fly between countries is regulated by treaties ('Air Services Agreements') negotiated bilaterally. There are more than 3,000 Air Services Agreements currently deposited with the International Civil Aviation Organisation (ICAO). The Australian Productivity Commission³⁰ described the position as follows:

International air services have developed within a complex web of regulations under the framework of the Chicago Convention of 1944. The guiding principles of this treaty are that each country has sovereignty over its own air space and should have the opportunity to develop its own national airline system.

- 4.3 Although there has, since the mid 1980's, been a growing trend towards liberalisation of these Air Services Agreements, all of them contain ownership and control restrictions and most continue to contain provisions limiting capacity. Many contain requirements that fares be agreed within the tariff mechanisms of IATA and approved by or registered with government.
- 4.4 Australia is a signatory to over 50 bilateral Air Services Agreements. The Productivity Commission described them in the following terms:

The ASAs note in detail the rights of each partner. They may specify not only the amount of capacity allowed between the two countries, but also the frequency of flights, the type of aircraft, the number of airlines which can be designated to fly, routes and airports to be used, the intermediate and beyond points (and how they may be used), and tariff setting mechanisms. They define both the opportunity for, and the limits on, production and trade of international air services and competition in the industry.

- 4.5 Schedule 2 contains an analysis of the Air Services Agreements to which Australia is a signatory. Capacity available to Australian international airlines under those agreements is allocated by a government body, the International Air Services Commission, based on public interest criteria.

5. IATA - its origins and role

- 5.1 IATA was founded in 1945 by airlines engaged in international air service by a special Act of the Canadian Parliament. The founding of IATA followed the International Civil Aviation Conference, which took place in Chicago in late 1944. That Conference gave birth to the Chicago Convention, the international treaty setting out the general rules

²⁹ A total of \$4,127,788,745 was billed to accredited agents in 50 settlements over 2000.

³⁰ Productivity Commission, *International Aviation 1999*

under which international air transport is operated, and to the International Civil Aviation Organization (ICAO) – a specialised agency of the United Nations.

- 5.2 Governments participating in the Conference sought to reach agreement on:
- procedures for setting and enforcing standards of safety, compatible means of communication and sharing in technological improvements; and
 - establishing principles and procedures for the economic regulation of routes, fares, frequency and capacity in international aviation³¹.
- 5.3 During and following the Conference, it became apparent that governments were unable to agree on every aspect of international air transportation. In particular, no general agreement could be reached as to the manner in which international fares and rates were to be established. Yet it was recognised that for an interline system to operate in a world of government bilaterals, some mechanism would be required to address such issues. The solution proposed was an inter-airline association and this was the genesis of IATA. As set out in paragraph 3(b) of the Act which established IATA, one of the specific purposes of IATA is “to provide means for collaboration among the air transport enterprises engaged directly or indirectly in international air transport service”.
- 5.4 The general purposes, objects and aims of IATA are to promote safe, regular and economical air transport, to foster air commerce, to provide means for collaboration among the air transport enterprises engaged in international air transport service, and to cooperate with ICAO and other international organisations.
- 5.5 Although IATA is often referred to as a trade association of the world's airlines, in fact it is more than that. Although it performs trade association functions for its members, on the regulatory side its activities have their origins in and are closely interwoven with the whole international regulatory system for safe and efficient international commercial aviation.
- 5.6 One of the tools used to further IATA's purposes, objects and aims, has been the IATA Traffic Conference structure. This was originally a single Conference (the Traffic Conference) organised by geographical region, but, since 1979 the conference system has consisted of the Tariff Coordinating, Agency and Services Conferences. These 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.
- 5.7 Throughout its history, IATA has recognised the complex role of governments in the commercial standards applicable in the industry, and submitted its resolutions, industry standards and recommended practices to government authorities for review.
- 5.8 The structure and rules governing the IATA Conferences are set out in Provisions for the Conduct of the IATA Traffic Conferences (the “Provisions”).
- 5.9 Historically, many governments required economic arrangements between airlines to be filed with and approved by them before they could enter into effect. IATA's resolutions therefore specifically provide for such filing and, where required, approval.
- 5.10 In Australia, Reg 106A of the *Air Navigation Regulations* required tariffs to be submitted for approval by the Director-General of Civil Aviation but that requirement

³¹ See Lowenfeld: *Aviation Law* (2nd edition) para 1.12

has been repealed. The Air Navigation Regulations, Reg 19, now provides that tariffs may be submitted for approval. Whether or not tariffs are submitted depends on the requirements of the relevant Air Services Agreement.

- 5.11 Resolutions adopted by IATA Conferences are not declared effective until all requisite governmental approvals are received. Resolution 001 (Permanent Effectiveness Resolution) and its predecessors (the first of which was adopted early in IATA's history), set out the procedure followed by IATA for obtaining governmental approvals and the declaration of effectiveness of resolutions.

6. IATA Passenger Agency Programme - overview

- 6.1 IATA has developed and manages a world wide programme designed to ensure the efficient sale and distribution of airline seats on its 270 member airlines anywhere in the world to and from any destination in the world.
- 6.2 The programme provides travel agents who meet IATA's prudential requirements substantial credit to sell airline seats on participating airlines (both members and others) using neutral IATA ticket stock. It also provides a regionally centralised method of reporting sales to those airlines and remitting, through the IATA Billing & Settlement Plan ('BSP'), money due to the airlines for those sales³².
- 6.3 IATA recognises that, for airlines that have no actual presence in Australia or are so small that they cannot afford to have their own office here, merely appointing accredited travel agents may not be sufficient. Therefore, the IATA Passenger Agency Programme also provides for airlines who wish to do so to appoint general sales agents in Australia.
- 6.4 The IATA Passenger Agency Programme, like other IATA systems and services, has been established by resolutions passed by IATA members in conferences as described below. Those resolutions are contained in IATA's Passenger Agency Conference Resolutions Manual.³³ Additional rules are contained in a number of handbooks published under those resolutions³⁴.
- 6.5 IATA has approximately 30 full-time staff employed in Australia to manage the accreditation programme and the BSP in Australia.

7. Conferences of IATA members

- 7.1 The 270 members of IATA determine the intricate set of rules necessary to support safe and efficient scheduled international air services and modify those rules as circumstances require. They do so through resolutions passed at conferences of members³⁵.

³² There are also rules dealing with circumstances in which member airlines do not participate in the BSP, however these rules are of much less practical consequence in Australia because all but three member airlines selling tickets in the Australian market (Air Mauritius, Continental Micronesia Inc and Royal Tongan Airlines) do so through the BSP: see Resolution 816 section 7. Accredited agents must use those airlines' own ticket stock, and sales must be reported and paid direct to the airline concerned.

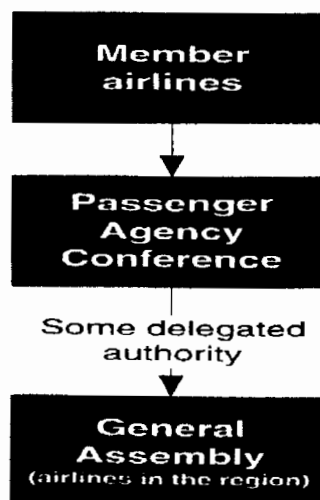
³³ The manual contains all the current resolutions of the Passenger Agency Conference. Not all resolutions apply world wide. A list of the resolutions applicable to Australia is contained in Schedule 3. Resolution 816 is the main resolution governing the Passenger Agency Programme in Australia. That resolution applies to the South West Pacific region which includes Australia.

³⁴ In Australia, those handbooks are the Travel Agent's Handbook (Resolution 816 edition), the Domestic Travel Agent's Handbook - Australia, the BSP Manual for Agents, the BSP Data Interchange Specifications Handbook, and the IATA Settlement Systems Service Provisions - Passenger.

³⁵ See IATA Articles of Association article IX(3)(c) and the Rules for the Conduct of Traffic Conferences.

- 7.2 These conferences of IATA members are divided into Tariff Coordinating Conferences and Procedures Conferences, which are collectively known as Traffic Conferences. The Procedures Conferences are further divided into Passenger Agency, Passenger Services, Cargo Agency and Cargo Services Conferences.
- 7.3 Each IATA member operating scheduled international passenger services is entitled to attend and vote at the Passenger Agency Conference.
- 7.4 As with all Traffic Conferences, a unanimous vote is required to pass Passenger Agency Conference resolutions. This is one of the important checks and balances in IATA and has the following two primary effects:
- no airline or group of airlines can dominate a conference; and
 - airlines must moderate their views on the rules they would like to have apply in their own country by having regard to what rules will apply to them in other countries in which they operate.
- 7.5 The Passenger Agency Programme is established and governed by resolutions passed by members at IATA Passenger Agency Conferences ('Conference'). The Conference is the supreme governing body for that programme.
- 7.6 The Conference can delegate authority, by resolution, to groups of airlines operating in particular areas of the world, to pass resolutions relating to certain limited aspects of the programme. This allows a measure of local autonomy and flexibility and tailors the programme to local conditions.
- 7.7 In the case of the South West Pacific, including Australia, authority over some aspects of the passenger agency programme have been delegated to a General Assembly of members. All IATA members operating services or selling through accredited agents in the region, as well as any non-members participating in a BSP in the region, are entitled to participate in the General Assembly. There are 77 airlines which participate in the General Assembly relevant to Australia. This is discussed in further detail in section 27.
- 7.8 The following diagram describes the structure:

Diagram 1
Passenger Agency Conference
Governance overview



8. Elements of the Passenger Agency Programme

8.1 The core of the IATA Passenger Agency Programme is the system established by it for the sale of tickets for air travel through accredited agents which are reported and settled through a clearing bank³⁶. That system is based on the following:

- accreditation and assessment of continuing credit worthiness of travel agents to whom the airlines give credit in the form of authority to write tickets
- allowing an agent credit through provision and management of neutral ticket stock and other facilities for the issuing of tickets
- the reporting and payment system under which agents account for money collected for the sale of tickets

However, the programme also has a number of other elements to it. Each element of the entire programme is described briefly below and in greater detail in following sections of this statement.

8.2 **Accreditation:** Resolution 816 and the Travel Agent's Handbook set out fair, neutral rules for assessing whether or not travel agents who apply for accreditation have the necessary qualifications and financial standing for appointment as an IATA agent, with the consequent credit entitlements that involves. These rules also set out what is required for continuing accreditation. These rules are described in greater detail at section 9 below.

8.3 **Airline appointment:** rules establishing efficient and simple means for airlines to appoint accredited agents to sell tickets are contained in Resolution 816 and the standard form of agreement provided in Resolution 824. These rules are described in greater detail at sections 10 and 11 below.

8.4 **Allowing credit:** the rules in relation to issuing tickets on standard neutral IATA ticket stock, which makes it possible for the programme to work, are contained in Resolution 816. These rules are described in greater detail at section 12 below.

8.5 **Reporting & payment:** Resolution 850 establishes the BSP and provides for its management and operation. This is the system by which accredited agents report sales and pay the airlines through a central, IATA-run, system. The rules in relation to agent reporting and remittance requirements are contained in Resolution 816 and the BSP Manual for Agents. These rules are described in greater detail at sections 13 and 17 below.

8.6 **Payment of commission or other remuneration:** Resolution 816 defines the types of services commission or remuneration is payable to accredited agents on, but otherwise leaves commission or remuneration as a matter to be agreed between the airline and the agent. These rules are described in further detail at sections 14 and 15 below.

8.7 **Non-compliance with reporting or remitting requirements:** the rules setting out what constitutes a non-compliance and the means by which an accredited agent can rectify them without further consequence are contained in Resolution 816. These rules are described in further detail at sections 18 and 19 below.

³⁶ The programme also allows for member airlines to deal direct with accredited agents rather than through the clearing bank: see footnote 32.

- 8.8 *Investigations:* Resolution 816 provides for IATA to periodically check an accredited agent's BSP accounting procedures to minimise airline losses through fraud or inability to pay. These rules are described in further detail at section 20 below.
- 8.9 *Consequences of non-compliance:* in order to ensure the viability of the programme there need to be rules dealing with the action to be taken against accredited agents who fail to comply with its reporting and remittance requirements. These rules are contained in Resolution 816 and are described in further detail at section 21 below.
- 8.10 *Right of review:* applicants and accredited agents who are dissatisfied with a decision made by IATA can have that the decision independently reviewed by a Travel Agency Commissioner. This review mechanism is established by Resolutions 816, 816e and 820d and is described in further detail at sections 23 and 24 below.
- 8.11 *Travel benefits:* a number of resolutions contain rules providing reduced fares to accredited agents for specified types of travel. These rules are described in further detail at section 25 below.
- 8.12 *General sales agents:* as noted at paragraph 6.3 above, the programme allows for airlines to appoint a general sales agent as an alternative to using the accredited agent system. The relevant resolution is Resolution 876 which is described in further detail at section 26 below.
- 8.13 *Governance of programme:* Resolutions 800g, 816, 850, 860 and 862 set out the rules establishing the governance of the programme at both an international and at a national level, including various consultative arrangements with agent representative bodies. These rules are described in further detail at section 27 below.
- 8.14 *Government approval:* Resolutions 001 and 200g provide for the filing of resolutions with those governments which require this to occur, according to the Air Services Agreements and domestic law, and for government approval where that is also required.
- 8.15 *Training:* IATA provides, or licences the provision of, special training courses to ensure that accredited travel agents and their employees are trained in IATA procedures. These arrangements are described in greater detail at section 28 below.
- 8.16 *Technical and procedural rules:* The programme also contains rules, set out in a number of resolutions, dealing with technical and procedural aspects of the programme. These rules are described in further detail at section 29 below.

9. **Becoming an IATA accredited agent**

- 9.1 Any licenced travel agent may apply for accreditation.³⁷ The agent submits an application providing key data on the agency, to the IATA Manager - Agency Accreditation Services in Australia. The form for that application is contained in Resolution 816a.
- 9.2 The rationale for IATA accrediting travel agents is that:

³⁷ All travel agents in Australia must be licenced by the State or Territory in which they operate. The relevant legislation is the *Travel Agents Act 1986* (New South Wales), *Travel Agents Act 1985* (Western Australia), *Travel Agents Act 1986* (Victoria), *Travel Agents Act 1986* (South Australia), *Travel Agents Act 1987* (Tasmania), *Agents Act 1968* (Australian Capital Territory), *Travel Agents Act 1988* (Queensland) and *Agents Licensing Act* (Northern Territory).

- Agents are provided with substantial credit by the airlines. The airlines need to be assured that agents who have access to the credit facility they provide meet reasonable prudential standards.
- The form which credit takes is the provision of IATA ticket stock and the means electronically to issue tickets or agent validator plates by IATA and carrier identification plates by the airlines which can be used to write tickets manually for travel anywhere in the world. The automated ticketing equipment and ticket stock and plates are very valuable and must be kept secure to avoid unauthorised use, theft or fraud³⁸.
- Under the programme agents are appointed the representative of the airlines they sell tickets for. The airlines need to have confidence that the agent is of appropriate standing and has an appropriate level of training to properly represent the airlines.

9.3 Once an agent obtains accreditation in relation to its principal place of business (referred to in the resolutions as its "head office location") it can apply for accreditation for any branch offices³⁹.

9.4 These requirements are relevant for Australia, even though Australia has a licensing regime for agents, because it is IATA's accreditation that foreign airlines rely on rather than State and Territory licensing. They are even more important, as part of a world-wide programme, in relation to agents in countries which do not have effective government licensing regimes.

9.5 The relevant paragraphs of Resolution 816 state:

4. Upon request, the Agency Administrator shall supply each prospective applicant with an application form and a copy of the Travel Agent's Handbook (at a nominal charge) containing these Rules and other relevant information and guidance.

4.1.1(a) an applicant which wishes to be included on the Agency List and have a place of business entered as an Approved Location on the Agency List, or an Agent which wishes to have an additional place of business entered as an Approved Location on the Agency List, shall forward to the Agency Administrator a completed application in the form prescribed accompanied by such documents as set forth in the Travel Agent's Handbook and by fees covering the following:

4.1.1(a)(i) entry fee; and

4.1.1(a)(ii) application fee which is non-refundable; and

4.1.1(a)(iii) the first annual agency fee;

4.1.1(a)(iv) a legal investigation fee, where the applicant is a trust entity,

4.1.1(b) the Agency Administrator shall process the application in accordance with the procedures established by the General Assembly and shall be empowered to approve or reject such application.'

³⁸ Travel agents need four things to write a valid airline manual (paper) ticket using IATA ticket stock. First they need a stock of IATA neutral tickets, supplied by IATA at no cost to the agent. Secondly they need a validator plate (like a credit card) provided by IATA which contains the agent's name and unique identifier number. Third, the agent needs an identification plate (also like a credit card) from each airline on which the agent proposes to write tickets. Finally, the agent needs a validator machine, like a credit card swipe machine, to convert a neutral ticket to a ticket on a particular airline by applying the agent's plate and the airline's plate to it. Where bookings are made via a third party computer reservation system (CRS) or automated ticketing system the process is different but the principles are the same. Most tickets issued now are automated rather than manual tickets.

³⁹ To be eligible for accreditation as a branch office location it must have the same corporate structure or ownership as the head office location, which must also have full legal and financial responsibility for the branch office: see Resolution 816 paragraph 3.4.9