

In analyzing whether either of the above conditions applies, it is necessary to consider both (i) Star's share of UK-originating traffic and (ii) Star's share of total traffic from both ends of the city/country pair.

B. Incentives Based on Market Share

The guidelines in this subsection apply to incentives that are based on the corporation doing a specified share of its travel with Star Alliance Carriers.

1. *POS in U.S., EU Non-Home Countries, Brazil, Singapore, Japan, and all other countries not elsewhere specified in these guidelines.*

Where the POS of the qualifying travel is in these countries, market-share incentives are generally permissible. (See, however, special restrictions in subsection B.3 below relating to UK POS qualifying travel.) The incentives may be tailored to the particular corporation being approached; different incentives may be offered to different customers with respect to such travel.

2. *POS in EU Home Countries and Canada.* The Star carriers may not offer market-share incentives where the POS of the qualifying travel is an EU home market or Canada.
3. *POS in United Kingdom.* While market share incentives for such travel are generally permissible when calculated on the basis of the

total volume of ex-U.K. travel of the corporate customer, the guidance in subsection A.3 above should be followed if the incentives are calculated on a city or country-pair basis.

C. Fixed Fare Programs, e.g., Corporate Net Rates (CNRs)

1. *POS in U.S., EU Non-Home Countries, Brazil, Singapore, Japan, and all other countries not elsewhere specified in these guidelines.* For travel with POS in these countries, offers of CNRs are generally permissible. The same CNRs for such travel need not be offered to every customer, and minimum commitment or other requirements may also vary among customers.

2. *POS in EU Home Countries and Canada.* CNRs are permitted for qualifying travel with a POS in one of the EU home countries or Canada, subject to the following guidelines:
 - If a range of CNRs is offered to different corporate customers depending on their minimum commitments, the scale of CNRs and commitments should be set up so that the reduction in the CNR at each higher level of commitment does not exceed the incremental profits expected to be generated.

 - A broadly consistent scale of CNRs and minimum commitments required to achieve them should be available to all corporate customers entering into contracts containing CNR-type

incentives for travel with POS in these countries (i.e., CNRs should not deviate by more than 10% for a given level of commitment). For qualifying travel with POS Canada, the same scale of CNRs should be offered in the first instance to all corporations, but this scale can be modified in individual negotiations.

- Adjustments to CNRs because a minimum commitment is not achieved can only be applied for future incentive periods.
- *Additional rule for POS in Germany.* If CNRs for travel with POS in Germany are offered on any Star carriers other than LH, UA, SK, and (forthcoming) BD, then legal counsel should be contacted.

D. Exceptions to EU Home-Country rules

Where the POS of the travel qualifying for the incentive is in an EU home country, but one or more of the conditions below apply, then volume or market-share incentives and fixed fare programs will be governed by subsections A.1, B.1 and C.1, and the restrictive EU home-country rules in subsections A.2, B.2 and C.2 will not apply.

1. *Customer Exception:* EU home country restrictions will not apply to corporations based in an EU home country where 60% of the corporation's travel involves both the origin and destination outside an EU home country.

2. *Route Exception:* EU home country restrictions will not apply to incentives with a POS in an EU home country for any city pair where the combined Star share on the pair is less than 40%. In analyzing whether this condition is satisfied, it is necessary to consider both (i) Star's share of EU home-country-originating traffic and (ii) Star's share of total traffic from both ends of the city pair.

3. *Additional Exception for Star Umbrella (Joint) Bonus:* EU home-country rules will not apply to Star umbrella or joint bonus programs where the corporation is based outside the EU home-countries and the POS of 50% or more of its travel is outside the EU home-countries.

E. Special Procedures for POS in Australia and New Zealand

At the present time, and until further notice, qualifying travel with POS in Australia or New Zealand ("Excluded Countries") will be excluded from the regular Joint STAR Corporate Agreement operating procedures, except as specifically provided below. Accordingly, there will be no agreements among Star carriers with respect to corporate fare reduction programs for qualifying travel with POS in these countries (and as stated at the beginning of these guidelines, no Star fare reduction programs will be offered to corporations with headquarters/principal place of business in these countries).

With respect to a corporate customer which has its headquarters/principal place of business in a country other than an Excluded Country, but which wishes to obtain discounts for such corporate travel as it may have with POS in one or more

Excluded Countries, the Lead Carrier responsible for the relationship with that customer, with the assistance of Star personnel, will collect separately from each carrier (with substantial service to/from the relevant Excluded Country) information as to what incentives or CNRs, if any, that carrier may offer for qualifying corporate travel with POS in the Excluded Country. The Lead Carrier and Star may refer to the availability of any such incentives or CNRs in the proposal to, or contract with, the corporate customer, and they may assist the customer in all technical steps necessary to obtain the benefit of such incentives or net rates; but, as stated above, neither Star nor the Lead Carrier will cause any agreements or discussions to occur among Star carriers concerning these or any other corporate incentives or CNRs for qualifying travel with POS in an Excluded Country.

IV. Tracking Performance and Revenue Accounting

- A. The Star carriers, including any of their personnel involved with the Joint STAR Corporate Agreement but not seconded to it on a full-time basis, should adhere to the following guidance concerning access to the information contained in the Corporate Customer, Sales Performance, and Customer Settlement reports (herein collectively, the "Reports").
- B. During the corporate customer contract prior to the time at which the customer can elect to renew, terminate, amend or enter a new contract (herein, "the renewal time"), access by the participating carriers to the full Reports for the corporate customers shall be limited to the Lead Carrier having responsibility for Star's relationship with the customer. In addition,

only the Lead Carrier shall have access to the information necessary for handling account discrepancies. The Lead Carrier will establish internal procedures, as directed by company counsel, to restrict access to the Reports and discrepancy handling information to those of its personnel with direct sales responsibility for the corporate customer. In particular, these materials are not to be disseminated to employees of the Lead Carrier directly engaged in establishing fares in the marketplace or planning capacity.

- C. In those limited situations in which there needs to be a Managing Carrier as well as a Lead Carrier responsible for the relationship with the corporate customer, the airline chosen as Managing Carrier should be offline, i.e., not fly the principal routes covered by the contract. (If an exception to this guideline is necessary for practical reasons, consult with counsel before implementation.)
- D. During the corporate customer contract prior to the renewal time, a participating carrier other than the Lead Carrier (or Managing Carrier, if applicable) shall have access only to those portions of the Reports that contain information concerning the customer's performance with that carrier. Information concerning customer performance with any other participating carrier shall not be available, except that aggregated information concerning the corporation's revenues, miles flown, etc. with

the participating Star carriers as a group may be made freely available to any participating carrier at any time.

- E. At the renewal time, if the corporate customer elects to renew the Star contract without change, or if it terminates the Star contract without inviting a new bid, then the foregoing restrictions on participating carriers access to the Reports shall remain in effect, both as to previous Reports under the old contract and, if the contract is renewed, subsequent Reports under the renewed contract.

- F. At the renewal time, if the corporate customer elects to invite a Star proposal for an amended or new contract, the participating carriers may then have access to the full Reports solely for the purpose of developing and presenting to the corporate customer an amended or new Star proposal. If the corporation enters into an amended or new Star contract, the restrictions on participating carrier access to the Reports as set forth in subsections A and C above shall thereafter be applicable under the amended or new contract.

- G. Once a Star contract with a customer is fully terminated, any Reports under that contract to which participating carriers were not allowed access by these guidelines shall remain inaccessible to them after termination.

4 December 2001

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**Guidelines for the Star
Plus Program**

Alliance Conventions

This memorandum provides guidelines for the operation of the Star Conventions Plus program under which discounted fares for online and interline travel on participating Star carriers may be made available to attendees at global conventions. These guidelines are designed to ensure antitrust/competition law compliance by limiting the participating carriers' activities to what is necessary for the success of the program and by avoiding spillover into the carriers' competitive operations outside the program.

The guidelines establish the procedures for making joint Star proposals to organizers of global conventions occurring anywhere in the world other than in an "excluded country". (At the present time, the following are excluded countries: Australia and New Zealand.) These joint Star proposals may make available discounted fares for purchase by convention attendees traveling from anywhere in the world other than an excluded country. (Procedures for notifying convention attendees from excluded countries of discounted fares that may be available for purchase from individual Star carriers in these countries are set forth in Section C. below.)

Note: (1) Japan is not an excluded country, but when ANA (or in the rare case that another Star member) is the Lead Carrier for a Star proposal to a convention organizer whose major convention objective lies in the Japan market, then no steps beyond those provided for in Sections A(1) and A(2) below may be taken until ANA has formally advised the designated Star personnel that ANA has determined that it is prepared to go forward with the proposal; and (2) Mexico is not an excluded country, but all Star carriers that fly to and from Mexico and are

participating in a Conventions Plus program involving travel to or from Mexico must file with the Mexican authorities the fares and conditions of applicability for flights qualifying under the program.

The Guidelines are divided into four sections. The first section applies to the process of soliciting requests for Star proposals from convention organizers. The second section applies to the process of developing those proposals once they have been requested. The third section sets forth procedures applicable to individual carrier discounts that may be available to attendees from excluded countries. The fourth section provides guidance concerning access to the tracking, performance, and revenue accounting reports generated for the Conventions Plus program.

A. Procedures for Soliciting Requests for Joint Proposals

1. Star carriers may identify certain conventions as being sufficiently global in attendance that (i) multiple airlines will necessarily be used by delegates to the convention and (ii) many delegates may require interline connections to travel to the convention. An organizer of such a convention may then be approached by a Star representative to determine whether the organizer wishes to receive a Star Alliance Conventions Plus proposal for Star to be the official airline network of the convention and for Star carriers to make special convention fares available to convention delegates.
2. The participating Star carriers should obtain in advance an organizer's consent to receive a Conventions Plus proposal. This consent will ordinarily be obtained by means of the Star Alliance Conventions Plus

RFP. The convention organizer may request a joint proposal either from the Alliance as a whole or from any subset of airlines in the Alliance. In the event that the RFP process does not take place, then Star should have a confirmation letter or other written documentation that the organizer is willingly seeking a joint Star proposal.

3. The convention organizer can receive either a joint Conventions Plus proposal from the Alliance (or any subset thereof), or separate proposals from one or more of its members not participating in the joint Conventions Plus bid, or both. If the convention organizer chooses to receive a joint Conventions Plus proposal, the carriers participating in that proposal will not make, while that proposal is outstanding, independent proposals in competition with the joint Conventions Plus proposal in which they are participating. Once a joint Conventions Plus proposal is withdrawn or rejected, however, the convention organizer may receive individual proposals from the carriers that participated in the joint proposal. The convention organizer should be made aware of these operating rules in the Star Alliance Conventions Plus RFP or confirmation letter.
4. If the convention organizer requests a joint bid from a subset of the Alliance members, the carriers excluded from the request may tender their own bids to the organizer. Similarly, if one or more Alliance members does not wish to participate in a joint proposal to a particular convention organizer, that carrier (or carriers) may submit its own separate bid to the

organizer. In these circumstances, the carriers excluded from the joint Alliance bid (whether at the request of the organizer or by their own initiative) should not participate in any discussions or information exchange undertaken for purposes of preparing the joint bid requested by the organizer. (Once a carrier has begun to participate in the discussions and exchanges looking toward preparation of a joint bid, that carrier is considered to be a participant in that bid and, as provided in A.3 above, may not submit an independent proposal during the pendency of the joint bid, even if that carrier elects not to be part of the joint proposal as it is finally submitted to the organizer.) Any carrier or group of carriers making a separate bid to the organizer should not discuss with any other carrier the terms of that bid.

5. Because a Conventions Plus proposal could be declined and the customer subsequently could want separate proposals from one or more Alliance members, the Conventions Plus participants should strictly avoid any discussion of what they will do individually if the joint offer is not accepted. Specifically, no carrier should disclose whether or not it will make a separate offer, and the terms of such an offer should not be discussed.
6. Each Conventions Plus participant should be free to decide whether or not it wants to participate in a particular joint proposal. If one (or more) of the

carriers decides not to participate in a joint proposal, the other carriers should not attempt to induce its participation.

B. Procedures for Developing Joint Proposals

1. In general, in operating the Conventions Plus program and developing joint Alliance proposals to convention organizers, the participating carriers should exchange only information necessary to develop the proposals. The Star carriers should not engage in any discussion of possible future alterations to any carrier's fares, including fare conditions and other terms of sale, or to any carrier's capacity levels, or exchange any other sensitive business information, including information with respect to convention fares offered by carriers individually to other organizers, that is not necessary to the process of developing the joint Conventions Plus proposals.

2. Star carriers participating in the Star Alliance Conventions Plus program may develop and maintain information as to the fares, and fare conditions and/or discounts that participating carriers will make available to Conventions Plus delegates in upcoming time periods, so that joint Conventions Plus proposals can be efficiently put together and promptly communicated to organizers requesting such proposals. The Star participants should not, however, as a group collect, exchange or maintain information as to current or projected convention fares, fare conditions and/or discounts that each makes or may make available in connection

with conventions which are not identified as potential recipients of a joint Star proposal and on which individual Star carriers may make offers.

3. The Star carriers participating in Conventions Plus may want to offer either interlineable convention fares available through a Star-established booking class and/or discounts off certain booking classes of published fares available from participating carriers. Further, the participating carriers will wish to construct their offer to the convention organizer so that the Conventions Plus fares and discounts, in whatever form they are offered, are competitive in the marketplace with fares and discounts on offer from other carriers, including discounted restricted fares that may be suitable alternatives for some convention attendees. These legitimate business purposes will necessitate some exchanges of information among participating carriers with respect to actual fare levels offered in the marketplace by Star carriers and competing carriers. Such exchanges must adhere strictly to the following rules:

- a) No information should be exchanged concerning the participating carriers' unpublished fares (e.g., corporate fares, consolidator fares), as none of these will be used to construct the joint convention fare offer. This prohibition includes discussions of the participating carriers' individual convention fares that each is offering to organizers other than those receiving Star Conventions Plus proposals.

- b) No information should be exchanged or discussed among the participating carriers, or developed by the Star Conventions Plus staff, concerning future fares likely to be available in the market at the time of the convention (typically, some 12 to 18 months or more after the submission of the Conventions Plus proposal to the organizer). Although the actual Star Conventions Plus fares available to convention attendees may well include fares calculated as a discount from specified classes of participating carriers' published fares then in the market, these discounts should be established in advance by the participating carriers without exchanging or discussing, or having Star staff develop, information as to future published fares.
- c) To test the likely competitiveness of the Conventions Plus fares or fare discounts to be offered to the convention organizer, participating carriers and Star staff may examine and exchange information from CRS systems as to current or recent published fares. Such exchanges should be carried out solely to determine whether a Conventions Plus offer of particular fares or fare discounts will likely be attractive to convention attendees. Under no circumstances should any participant in such exchanges communicate any suggestion, comment or opinion concerning the desirability or undesirability of changing or maintaining any published fare that is being reviewed. The published fares under

examination should be taken as given, and not discussed for any other purpose than to assess the likely competitiveness of the Conventions Plus fares offer that is being prepared.

4. If a joint Conventions Plus proposal to a particular organizer covers more than one convention, the contract with the organizer should not exceed one year unless it is terminable on no more than six months notice.

C. Attendees from Excluded Countries

As previously stated, the Star Conventions Plus program does at present not extend to conventions occurring in certain excluded countries (Australia and New Zealand); nor does it extend to travel purchased in these excluded countries by persons attending global conventions elsewhere in the world. Accordingly, with respect to conventions in the excluded countries and convention travel with POS in these countries, there will be no joint proposals or other agreements among Star carriers with respect to convention fares, fare conditions or discounts.

With respect to an organizer of a global convention outside an excluded country that expects some attendees from one or more excluded countries and that wishes to have some kind of special discounted convention fare available to such attendees, the following procedures may be utilized to provide a partial solution to the problem.

1. The Lead Carrier responsible for the relationship with the organizer, with the assistance of Star personnel, will collect separately from each carrier (having substantial service to/from the relevant excluded country) what additional fares or discounts, if any, that carrier individually and independently is willing to offer for sale in the excluded country to

attendees of the convention. The Lead Carrier will then transmit this information to the convention organizer in conjunction with the Star Conventions Plus proposal, without sharing it in advance or discussing it with any other carrier.

2. If the organizer accepts the Star proposal, and wishes to inform the attendees from the excluded countries of any or all of the individually offered fares or discounts available to attendees from those countries, the Lead Carrier and Star may assist the organizer in this process and may organize and carry out whatever technical steps are necessary to ensure the convenient availability of the individually offered fares or discounts to the attendees in accordance with the organizer's representations.
3. In carrying out the foregoing activities, neither Star nor the Lead Carrier, nor any other Star carrier, will communicate to one another any suggestion, comment or opinion as to the desirability or undesirability of changing or maintaining any such individually offered convention fare.

D. Tracking and Performance Reports

1. The Star carriers, including any of their personnel involved with Conventions Plus but not seconded to the program on a full-time basis, should adhere to the following guidelines concerning access to the information contained in Conventions Plus reports.

2. The Lead Carrier responsible for the relationship with a convention organizer should receive only the following : (a) its own Event Performance and Year-to-Date Event Reports; (b) the cumulative Event Performance and Year-to-Date Event Reports, containing only aggregated information about the performance of the participating carriers, and not any confidential, competitively sensitive information about any individual airline; and (c) the Organizer Event Report, indicating each participating carrier's market share percentage, so that expenses for the event support may be properly allocated. In no circumstance is the Lead Carrier to have access to the individual performance reports of any other carrier.
3. The other carriers participating in a particular Conventions Plus program should receive only the cumulative Event Performance Report for the event , the cumulative Year-to-Date Event Reports and the separate Event Performance and Year-to-Date Event Reports on their individual performance in the Conventions Plus program. None of the participating carriers in an event should have access at any time to the individual performance reports of other carriers for the event.
4. The reports discussed in this section may include data generated by purchases of individually offered fares made available through the procedures specified in Section C. above.

Wilmer, Cutler & Pickering

TRADE PRACTICES ACT 1974

UNDERTAKING TO THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION GIVEN FOR THE PURPOSES OF SECTION 87B OF THE TRADE PRACTICES ACT 1974

BY

AIR NEW ZEALAND LIMITED (ABN 70 000 312 685)

BACKGROUND

- 1) Air New Zealand Limited (Air NZ) was incorporated in New Zealand in 1940 and is New Zealand's only international and largest domestic airline. It operates air passenger and cargo transport services throughout New Zealand and the South West Pacific (including between New Zealand and Japan, Hong Kong and Singapore), and to Australia, the United States and the United Kingdom.
- 2) Air NZ is a member of the Star Alliance. The Star Alliance was formed in 1997 to integrate certain marketing and operational functions of alliance members and to provide a range of improved networks, services and facilities for international travellers.
- 3) Air NZ's Star Alliance partners currently include Air Canada, All Nippon Airways Co Limited, Asiana Airlines, Inc., Austrian Airlines Österreichische Luftverkehrs AG, British Midland Airways Limited, Luda Air Luftfahrt AG, Deutsche Lufthansa Aktiengesellschaft, Compania Mexicana de Aviación, SA de CV, Scandinavian Airlines System, Singapore Airlines Limited, Spanair S.A., Thai Airways International Public Company Limited, Tyrolean Airways, United Airlines Inc and VARIG SA. Polskie Linie Lotnicze LOT and US Airways, Inc. will shortly become Star Alliance partners.
- 4) On 11 April 2002 Air NZ lodged, on behalf of all members of the Star Alliance, applications for authorisation A30209 and A30210 with the Australian Competition and Consumer Commission (the Commission). On 26 April 2002, Air NZ lodged further applications for authorisation A30211, A30212 and A30213 with the Commission.
- 5) Applications A30210 and A30212 were made under section 88(1) of the *Trade Practices Act 1974* (the Act) for an authorisation to make and give effect to a contract, arrangement or understanding, where a provision of the proposed contract, arrangement or understanding would have the purpose, or would have or might have the effect of substantially lessening competition within the meaning of section 45 of the Act.
- 6) Applications A30209 and A30211 were made under section 88(1) of the Act for an authorisation to make and give effect to a contract, arrangement or understanding, where a provision of the proposed contract, arrangement or understanding would be, or might be, an exclusionary provision within the meaning of section 45 of the Act.

- 7) Application A30213 was made under section 88(8) of the Act for an authorisation to engage in conduct that constitutes or may constitute the practice of exclusive dealing.
- 8) The applications for authorisation relate to guidelines for the implementation of the Star Joint Corporate Agreement (the Corporate Agreement) (A30209 and A30210) and the Star Alliance Conventions Plus Program (the Conventions Program) (A30211, A30212 and A30213).
- 9) Under the Corporate Agreement, participating Star Alliance members may offer a consenting organisation discounts on published fares or corporate net rates on some or all of the routes that are travelled by the employees of the corporation. It is proposed that Star Alliance members participating in such an offer would be able to collect and exchange the information required to develop the offer, and will not make competing independent offers, unless the joint offer is withdrawn or rejected.
- 10) Under the Conventions Program, participating Star Alliance members may offer a consenting convention organiser discounts on published fares or interlineable convention fares for purchase by convention delegates. It is proposed that Star Alliance members participating in such an offer would be able to collect and exchange the information required to develop the offer, and will not make competing independent offers, unless the joint offer is withdrawn or rejected.
- 11) On 30 May 2003, the Commission issued a Draft Determination proposing to authorise the proposed arrangements subject to Air NZ offering, and the Commission accepting, an undertaking pursuant to section 87B of the Act stating that Air NZ would cease participation in both the Corporate Agreement and the Conventions Program should it enter into an alliance with Qantas Airways Limited (Qantas) of the type described in authorisation applications A30220, A30221, A30222, A90862 and A90863 whereby Air NZ and Qantas propose to agree on matters such as flight schedules and fares on routes where they both operate and Qantas would acquire up to 22.5 per cent equity in Air NZ.

COMMENCEMENT OF UNDERTAKINGS

- 12) This undertaking comes into effect when:
 - a) the undertaking is executed by Air NZ; and
 - b) the Commission accepts the undertaking so executed.

UNDERTAKING

- 13) Air NZ undertakes:
 - a) not to participate in the Corporate Agreement upon giving effect to an alliance with Qantas of the type described in authorisation applications A30220, A30221, A30222, A90862 and A90863, or any similar alliance with Qantas involving the coordination of fares and schedules on trans-Tasman routes; and

- b) not to participate in the Conventions Program upon giving effect to an alliance with Qantas of the type described in authorisation applications A30220, A30221, A30222, A90862 and A90863, or any similar alliance with Qantas involving the coordination of fares and schedules on trans-Tasman routes.

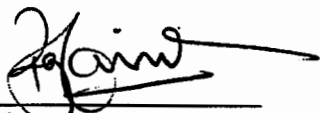
ACKNOWLEDGEMENTS

- 14) Air NZ acknowledges that the Commission will make this undertaking available for public inspection.
- 15) Air NZ acknowledges that the Commission may, at its discretion, from time to time, publish and publicly refer to this undertaking.

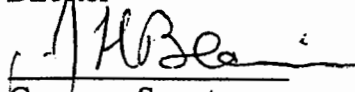
IN WITNESS OF THIS UNDERTAKING

Executed by
Air New Zealand Limited

)
)



Director



Company Secretary

Witness :


Name : COLLEEN P. RODRIGUEZ

Occupation : EXECUTIVE ASSISTANT

Address : 68, SOMERVILLE ROAD, HOWICK, AUCKLAND

This day of August 2003

ACCEPTED BY THE AUSTRALIAN COMPETITION AND CONSUMER
COMMISSION PURSUANT TO SECTION 87B OF THE TRADE PRACTICES
ACT 1974



CHAIRMAN

This ^{3rd} day of ~~August~~ ^{September} 2003