



**Australian
Competition &
Consumer
Commission**

Our Ref: A91001, 91002 and 91003
Contact Officer: Carl Toohey
Contact Phone: (03) 9290 1480

PO Box 1199
Dickson ACT 2602

470 Northbourne Ave
Dickson ACT 2602

ph (02) 6243 1111
fax (02) 6243 1199

www.accc.gov.au

19 April 2006

«Name»

Dear «Salutation»

Re: Qantas and Air New Zealand applications for authorisation

On 18 April 2006 the Australian Competition and Consumer Commission (the ACCC) received applications for authorisation (A91001, A91002 and A91003) from Qantas Airways Limited (Qantas) and Air New Zealand Limited (Air NZ) and their subsidiaries (the Applicants) in relation to a Tasman Networks Agreement (TNA).

The TNA is conditional upon authorisation being granted by the ACCC under the *Trade Practices Act 1974* (the Act) and relevant regulatory approval in New Zealand.

Authorisations

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

The authorisation process, however, allows the ACCC to grant immunity from the application of many of the restrictive trade practices provisions of the Act in certain circumstances. In order to grant authorisation the ACCC must generally be satisfied that the public benefit arising from the particular conduct outweighs any detriment, particularly anti-competitive detriment, arising from the conduct.

In assessing the public benefits and detriments of an authorisation application, the ACCC undertakes a public consultation process seeking comments on the application from interested parties. Following an initial consultation process, the ACCC will issue a draft decision for comment. Further information regarding the authorisation process is available from the ACCC's website (www.accc.gov.au).



The applications

As mentioned above, authorisation has been sought in relation to the Applicants' Tasman Networks Agreement (TNA). The TNA involves the coordination of activities between the Applicants in respect of any flight operated on their 'trans-Tasman Network' in the areas of scheduling and planning of flights (including the allocation of capacity), pricing of passenger services, code sharing, frequent flyer programs, processing of passengers and baggage, and coordinating of minimum inflight offering and cargo services (as determined from time to time).

Notably, the current applications are different from the applications for authorisation lodged by Qantas and Air NZ in December 2002, the current proposal being limited to trans-Tasman routes and not involving any acquisition of shares.

A copy of the current applications and supporting submission are enclosed with this letter. A copy of these documents is also available from the ACCC's website at www.accc.gov.au (by following the Public Registers and Authorisations links).

Request for submission on the applications for authorisation

As a potentially interested party you are invited to make a written submission to the ACCC regarding the likely public benefits and effect on competition of the TNA.

In support of the applications, the Applicants claim that the arrangements will result in substantial public benefits. The Applicants also claim that there will be no scope for damage to the Tasman competitive process because there are no barriers to expansion of either Virgin Blue or Emirates or other fifth freedom carriers. In this regard, the Applicants claim that the findings of the Australian Competition Tribunal (the Tribunal) of 12 October 2004 with respect to a previous proposed alliance between Qantas and Air NZ are directly relevant in the current context.

To assist the ACCC in its consideration of the applications you are invited to provide your views on the Applicants claims. The ACCC would be particularly interested in your views on the following issues:

- In what ways (if any) has the trans-Tasman market changed since the Tribunal made its determination on 12 October 2004 with respect to the applications for authorisation submitted by Qantas and Air NZ in December 2002?
- More generally, what is your view on the current state of competition in this market, and specifically, on particular trans-Tasman routes?
- What is your view on the barriers to entry and expansion in this market?
- What is your view on the likely impact of the TNA on average air fares on trans-Tasman routes?

- In your view, would other carriers such as Pacific Blue, Emirates or other fifth freedom carriers be able to effectively constrain the pricing, capacity and scheduling decisions of the Applicants in the trans-Tasman market in the event that authorisation was granted?
- To what extent do you consider the public benefits submitted by the Applicants will flow from the proposed arrangements?

The ACCC asks for submissions to be in writing so they can be made publicly available. They are placed on a public register for this purpose.

Persons lodging a submission with the ACCC may request that information included in the submission be treated as confidential and not placed on the public register. If confidentiality is granted in respect of information, the ACCC may take it into account, even though this information will not be publicly available. Guidelines for seeking confidentiality are enclosed.

The ACCC will be progressing its assessment of the applications in a timely manner. An indicative timetable is set out below for your information. While submissions will continue to be accepted and where possible considered throughout, the ACCC will not be providing extensions to requests for submissions.

If you wish to lodge a submission to be considered by the ACCC in considering its draft determination, please address your submission to:

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

Submissions can also be lodged by email to adjudication@acc.gov.au or faxed to (02) 6243 1211.

Please ensure that your submission reaches the ACCC by **cob Friday 12 May 2006** and provide an email address to enable future correspondence from the ACCC to be sent electronically to the appropriate contact.

If you do not wish to provide a submission at this stage but would like to be kept informed in relation to the application for authorisation, please email me at the address provided below. Also, please forward this correspondence to any other party you believe may be interested in this matter.

Should you have any queries or wish to discuss any aspect of the application for authorisation, please contact me on (02) 6243 1049 or at isabelle.arnaud@acc.gov.au, or Carl Toohey on (03) 9290 1480 or at carl.toohey@acc.gov.au.

A copy of this letter will be placed on the public register.

Yours sincerely

Isabelle Arnaud
Director
Adjudication Branch

Indicative timetable

18 April	Applications received
19 April	Interested party consultation commenced
12 May	Interested party submissions due
May/June	ACCC to: consider interested party submissions; engage in further discussions/enquiries with the Applicants and interested parties as necessary
June/July	ACCC to: issue its draft determination; invite the Applicants and interested parties to call a conference; and seek further submissions
July/August	Further consultation with Applicants and interested parties
September/October	ACCC to finalise its assessment and issue its final determination

No	Organisation
1.	Aerolineas Argentinas
2.	Aircalin
3.	Air Canada
4.	Air China
5.	Air Mauritius
6.	Air Nauru
7.	Air Niugini (Australia)
8.	Air Pacific Ltd
9.	Air Vanuatu
10.	Asian Express Airlines Ltd
11.	Australian Air Express
12.	Asiana Airlines
13.	British Airways
14.	Cargolux Airlines International
15.	Cathay Pacific Airways
16.	Continental Micronesia
17.	China Airlines
18.	China Eastern Airlines
19.	China Southern Airlines
20.	Emirates
21.	Eva Air
22.	Federal Express Corporation
23.	Garuda Indonesia
24.	Gulf Air

25.	Hawaiian Airlines
26.	Heavy Lift Cargo Airlines Pty Ltd
27.	Japan Airlines Ltd
28.	Korean Air
29.	KLM Royal Dutch Airlines
30.	Austrian Airlines
31.	Lufthansa German Airlines
32.	Lan Chile Airlines
33.	Malaysia Airlines
34.	Martinair Cargo
35.	Merpati Nusantara Airlines
36.	Olympic Airways
37.	Pakistan International Airlines
38.	Philippine Airlines
39.	Polar Air Cargo
40.	Polynesian Airlines
41.	Regional Express Airlines
42.	Royal Brunei Airlines
43.	Singapore Airlines Ltd
44.	Skywest Airlines
45.	Solomon Airlines
46.	South African Airways
47.	Thai Airways International
48.	United Airlines

49.	United Parcel Services
50.	Vietnam Airlines
51.	Virgin Atlantic Airways Ltd
52.	Virgin Blue
53.	Australian Federation of International Forwarders
54.	Air Freight Council of Queensland Ltd
55.	Victorian Airfreight Council
56.	Air Freight Export Council of NSW Inc
57.	SA Freight Council Inc
58.	Customs Brokers & Forwarders Council of Australia
59.	Wilson Logistics
60.	VIP Logistics
61.	DHL Danzas
62.	Schenker Australia
63.	Australian Federation of Travel Agents
64.	Flight Centre
65.	Australasian Business Travel Association
66.	Harvey World Travel
67.	American Express International Inc.
68.	Tourism Australia
69.	Tourism NT
70.	South Australian Tourist Commission
71.	NSW Department of Tourism, Sport and Recreation

72.	Tourism Queensland
73.	Tourism Tasmania
74.	Tourism Victoria
75.	West Australian Tourism Commission
76.	TTF Australia
77.	Australian Tourism Export Council
78.	Australian Industry Group
79.	Australian Chamber of Commerce and Industry
80.	Department of Transport and Regional Services
81.	Department of Industry, Tourism and Resources
82.	Competition and Consumer Policy Division
83.	Department of Prime Minister & Cabinet
84.	Austrade
85.	International Air Service Commission
86.	NSW Department of State and Regional Development
87.	ACT Department of Treasury
88.	Western Australia Department of Transport
89.	Queensland Transport
90.	NSW Ministry of Transport
91.	Department of Transport, Energy and Infrastructure
92.	Department of Infrastructure, Energy and Resources
93.	NT Department of Infrastructure, Planning and Environment

94.	Department of Innovation, Industry & Regional Development
95.	Adelaide Airport
96.	Brisbane Airport Corporation
97.	Canberra International Airport
98.	Hobart Airport
99.	Environment, Strategy & Planning Melbourne Airport
100.	Northern Territory Airports Pty
101.	Sydney Airport Corporation Limited
102.	Westralia Airports Corporation
103.	Consumers' Federation of Australia
104.	Consumer Law Centre Victoria
105.	Australian Consumers Association
106.	Australian Federation of Disability Organisations
107.	Australian Council of Trade Unions
108.	Australian and International Pilots Association
109.	Flight Attendants Association of Australia
110.	Australian Federation of Air Pilots
111.	Productivity Commission
112.	Bureau of Transport and Regional Economics
113.	EgyptAir
114.	International Air Transport Association
115.	Regional Aviation Association of Australia
116.	STA Travel

117.	Sydney Airports Corporation Limited
118.	Australian Services Union
119.	Reed Business Information