

AUST COMPETITION &  
CONSUMER COMMISSION  
BRISBANE  
15 AUG 2008



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14 August 2008

Australian Competitor & Consumer Commission  
PO Box 10048  
Adelaide Street Post Office  
BRISBANE QLD 4000

Dear Sir/Madam

Please find **attached** Form G in relation to the sale of V Australia flights through travel agents.

An electronic copy was emailed to you on 14 August 2008 and payment of \$100 was deposited into your account by way of electronic transfer on 12 August 2008. Could you please provide us with a receipt in due course.

Yours faithfully

Tristan Barns  
Legal Counsel  
Virgin Blue Airlines Pty Ltd



# Form G

Commonwealth of Australia  
*Trade Practices Act 1974 — subsection 93 (1)*

## NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Trade Practices Act 1974*, of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

### 1. Applicant

- (a) Name of person giving notice:  
(Refer to direction 2)

N93553

Virgin Blue International Airlines Pty Ltd ACN 125 580 823 trading as  
V Australia (“V Australia”).

- (b) Short description of business carried on by that person:  
(Refer to direction 3)

International airline.

- (c) Address in Australia for service of documents on that person:

Mr Tristan Barns  
Legal Counsel  
Virgin Blue Group  
Building A  
56 Edmonstone St  
BOWEN HILLS QLD 4006  
Australia  
Tel: (07) 3295 3058  
Fax: (07) 3295 3996  
Email: [tristan.barns@virginblue.com.au](mailto:tristan.barns@virginblue.com.au)

### 2. Notified arrangement

- (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

Sale of airline flights to members of the public through travel agents. In other words, enabling travel agents to book and pay for flights on V Australia.

(b) Description of the conduct or proposed conduct:

Requiring travel agents to enter into an agreement with Enett International Pty Ltd to participate in the 'enett' payment and settlement system (described at [www.enett.com.au](http://www.enett.com.au)), in order to enable those travel agents to book and pay for V Australia flights on the Global Distribution System (GDS).

**3. Persons, or classes of persons, affected or likely to be affected by the notified conduct**

(a) Class or classes of persons to which the conduct relates:

*(Refer to direction 5)*

- Travel agents.

(b) Number of those persons:

(i) At present time:

Travel agent outlets in Australia – approx 6,000.

(ii) Estimated within the next year:

*(Refer to direction 6)*

Travel agent outlets in Australia – approx 6,000.

(c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:

Not applicable

**4. Public benefit claims**

(a) Arguments in support of notification:

*(Refer to direction 7)*

V Australia is a newly-formed airline, and as a result, the International Air Transport Association (IATA) will not permit V Australia to participate in IATA's standard mechanism for settlement with travel agents (the IATA Billing and Settlement Plan, or BSP) until V Australia commences its scheduled flights (in December 2008). V Australia disagrees with, but accepts, IATA's approach.

However, the Civil Aviation Safety Authority (CASA) has given its approval for V Australia to commence sales of its flights, provided that V Australia notifies customers that its flights are subject to regulatory approval.

V Australia therefore has approval to sell its flights, but requires a settlement system for travel agents, to allow them to book V Australia flights in the Global Distribution System (GDS – the booking system used by travel agents to book the vast majority of international flights) and remit funds for the booking to V Australia. This functionality is usually provided by BSP, but BSP will not be available for V Australia until December 2008 at the earliest, as a result of IATA's decision (described

above). V Australia anticipates that more than 70% of its flights will be purchased through travel agencies (because they are high-value long-haul flights), and accordingly this means V Australia's capacity to distribute its services to Australian consumers will be constrained unless an alternative settlement mechanism is found.

V Australia's flights will operate between the East coast of Australia and the West coast of the USA. This is one of the most capacity-constrained markets in the world. V Australia respectfully submits that there is a clear public benefit in providing additional capacity and additional competition as quickly as possible – particularly in the most popular distribution method for the relevant services (ie travel agents).

The proposed conduct simply entails an alternative settlement mechanism for travel agents. Settlement costs are similar to BSP, and there is no discernible difference to a consumer (they simply pay the travel agent and receive a ticket, in exactly the same way as a flight booking settled through BSP). The only difference for members of the public, is that they will have an additional airline to choose when they visit their travel agent – and V Australia respectfully submits that there is a very clear public benefit in providing this additional choice.

Finally, a substantial number (in excess of 30%) of travel agent outlets in Australia already use Enett to settle with other suppliers (eg tour operators), so it is already a well-accepted solution in the travel agent community in Australia.

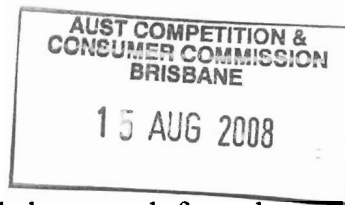
(b) Facts and evidence relied upon in support of these claims:

The proposed conduct increases the number of flights travel agents will be able to sell to members of the public, and does not change the cost of those flights (including settlement costs). It therefore increases competition and choice, without introducing new transaction fees or business processes as between consumer and travel agent.

**5. Market definition**

Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):  
*(Refer to direction 8)*

The market for the provision of travel agency services for long-haul travel in Australia is a large and diverse market. It is also a market which is well-known to the ACCC. The market for the provision of settlement services between airlines and travel agents is far more tightly constrained, as it is operated primarily by IATA and BSP, under authorisations granted by the ACCC. There are few substitutes. BSP is a well-known and well-accepted solution which most travel agents use. This makes the successful implementation of alternative settlement mechanisms more difficult, and has a tendency to entrench the dominant position of IATA and its (legacy Airline) members.



**6. Public detriments**

- (a) Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:

*(Refer to direction 9)*

V Australia submits that there is no likely detriment to the public resulting from the proposed conduct.

- (b) Facts and evidence relevant to these detriments:

The proposed conduct allows V Australia flights to go on sale in travel agencies across Australia – thereby providing additional competition in a constrained market, and additional choice for Australian consumers.

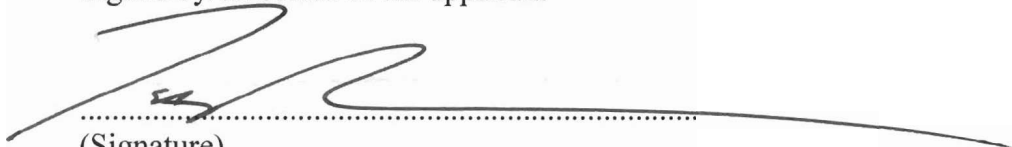
**7. Further information**

- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Mr Tristan Barns  
Legal Counsel  
Virgin Blue Group  
Centenary Square  
131 Barry Parade  
FORTITUDE VALLEY Qld 4006  
Australia  
Tel: (07) 3295 3058  
Fax: (07) 3295 3996  
Email: [tristan.barns@virginblue.com.au](mailto:tristan.barns@virginblue.com.au)

Dated 7 August 2008

Signed by/on behalf of the applicant



(Signature)

Tristan Barns  
(Full Name)

Virgin Blue Group (incorporating Virgin Blue International Airlines Pty Ltd)  
(Organisation)

Legal Counsel.  
(Position in Organisation)