



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2009/1316
Contact Officer: Teresa Nowak
Contact Number: (02) 6243 1239

10 September 2009

Mr Simon Snow
Partner
Gilbert + Tobin
Level 37, 2 Park Street
SYDNEY NSW 2000

Dear Mr Snow

**Virgin Blue Airlines Pty Ltd & Ors – applications for authorisation A91151-A91152
and A91172-A91173**

I refer to the above applications for authorisation lodged with the Australian Competition and Consumer Commission (ACCC) on 9 July and 24 July 2009, and subsequent communication.

The ACCC has reviewed the information provided by you to date and seeks your clarification and response to the issues set out below.

The counterfactual

Your submission dated 9 July 2009 states that, absent the Joint Venture, the competitiveness and attractiveness of the applicants' offering will remain limited due to, among other things, their narrow network. The submission sets out each of Virgin Blue's and Delta's domestic networks.

[Redacted]

The ACCC seeks information to assist its assessment of the extent to which the applicants' network would be expanded by the Joint Venture, as compared to the applicants' network under existing arrangements. In this regard, please provide the following information.

1. A list detailing the city pairs that are likely to be offered to trans-Pacific travellers under the Joint Venture.

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2. A list detailing the city pairs offered or that will be offered to trans-Pacific travellers absent the Joint Venture, under the applicants' existing codeshare, interline and marketing agreements (cooperation agreements).
3. Details of the level of service that would be offered to trans-Pacific passengers in relation to the routes that will be available under the Joint Venture, compared to the offering absent the Joint Venture – in particular, will the Joint Venture facilitate reduction in time penalties, greater frequency, and improved connections? If so, please indicate how the Joint Venture would facilitate a more attractive service offering, and why this could not be achieved via existing cooperation agreements.

The ACCC understands that Virgin Blue currently has codeshare arrangements with United Airlines (United). In this regard, please provide the following information.

4. Whether the codeshare arrangements between Virgin Blue and United will continue in the event that the Joint Venture is implemented.
5. Whether the codeshare arrangements between Virgin Blue and United will continue in the event that the Joint Venture is not implemented.
6. A list of each of Virgin Blue's and Delta's existing codeshare and interline partners insofar as relevant to the trans-Pacific routes.

Public benefit

Your submission dated 9 July 2009 and your letter dated 21 August 2009 identify a number of public benefits arising from the Joint Venture. The ACCC seeks further information to assess the extent to which these benefits arise from the Joint Venture as distinct from the applicants' existing cooperation agreements.

Lower fares

The applicants submit that the Joint Venture will continue to facilitate lower fares through increased capacity, removal of 'double marginalisation' incentives and cost savings. In this regard, please provide the following information.

7.

	Please comment on the
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impact the Joint Venture would have on capacity on each of the trans-Pacific routes.

8. An estimate or quantification of the effect of removing 'double marginalisation' incentives on the applicants' trans-Pacific routes.
9. An estimate or quantification of the effect of removing 'double marginalisation' incentives on the applicants' beyond codeshare routes.
10. An estimate or quantification of the cost savings identified in section 8.3(c) of your submission dated 9 July 2009, namely:

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- (a) coordination of marketing spend and activities
- (b) maintenance of a single sales, marketing and customer service team and operations in Australia and the United States
- (c) joint procurement arrangements.

11. Whether any of the cost savings at 10(a)-(c) above could be achieved through the applicants' existing cooperation agreements and if so, a comparison of the cost savings with and without the Joint Venture.

Factual information

Passengers

[Redacted]

In this regard, we would appreciate information clarifying the following.

- 12. The proportion of each of Virgin Blue's and Delta's passengers travelling beyond relevant city gateways, including details of the destination.
- 13. The proportion of each of Virgin Blue's and Delta's passengers whose travel originates outside of relevant city gateways, including details of the origin.

Pricing

- 14. Please provide details of monthly pricing data for Virgin on each of its respective trans-Pacific services from February to August 2009.
- 15. Please provide details of any promotions and/or discounts offered by each of Virgin Blue and Delta since the commencement of their trans-Pacific services including:
 - (a) the nature of the offer(s)
 - (b) time-frame of the offer(s)
 - (c) route to which the offer(s) applies.

Other

[Redacted]

In order to assist the ACCC progressing this matter in a timely manner, I would be grateful for your response by 5.00pm on Friday 18 September 2009. I note that some of the issues

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raised may be more efficiently addressed by way of discussion and therefore, I would also welcome the opportunity for a meeting with the applicants.

A copy of this letter, without the confidential information highlighted above, will be placed on the ACCC public register.

If you wish to discuss any aspect of this matter or arrange a time for a meeting, please do not hesitate to contact Darrell Channing on (02) 6243 4925, Teresa Nowak on (02) 6243 1239, or Clare McGinness on (02) 6243 1049.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Hatfield', is written over a light grey rectangular background.

David Hatfield
A/g General Manager
Adjudication Branch