



**Australian
Competition &
Consumer
Commission**

GPO Box 3131
Canberra ACT 2601

23 Marcus Clarke Street
Canberra ACT 2601

tel: (02) 6243 1111
fax: (02) 6243 1199

www.accc.gov.au

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

30 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.

I note in particular our telephone conversation of Monday 28 September 2009 in which you advised that the Applicants would be unable to attend a scheduled meeting with the ACCC to discuss the abovementioned applications for authorisation, including the matters contained in the ACCC's letter of 10 September 2009.

In view of the Applicants' inability to meet with the ACCC on this occasion, I attach for your consideration a list of matters that the ACCC had wished to discuss at that meeting. The matters in the attachment relate predominantly to information provided by the Applicants, including material provided on 21 and 28 August, and 21 September 2009. I invite the Applicants' response to the matters contained in the attachment to this letter.

In the interests of progressing the ACCC's timely consideration of this matter, I would be grateful for your response to the issues raised in the attached by no later than **COB Wednesday 7 October 2009**. I would also like to suggest a meeting with the Applicants at the earliest opportunity to discuss the issues raised herein.

A copy of this letter, without questions 1 – 7, 10, 11, 12, 14, 17, and 18 of the attachment, will be placed on the ACCC public register.

If you wish to discuss any aspect of this matter, arrange a time for a meeting, or consider that you will be unable to meet the timeframe for response, please contact Darrell Channing on (02) 6243 4925, Teresa Nowak on (02) 6243 1239, or Clare McGinness on (02) 6243 1049.

Yours sincerely

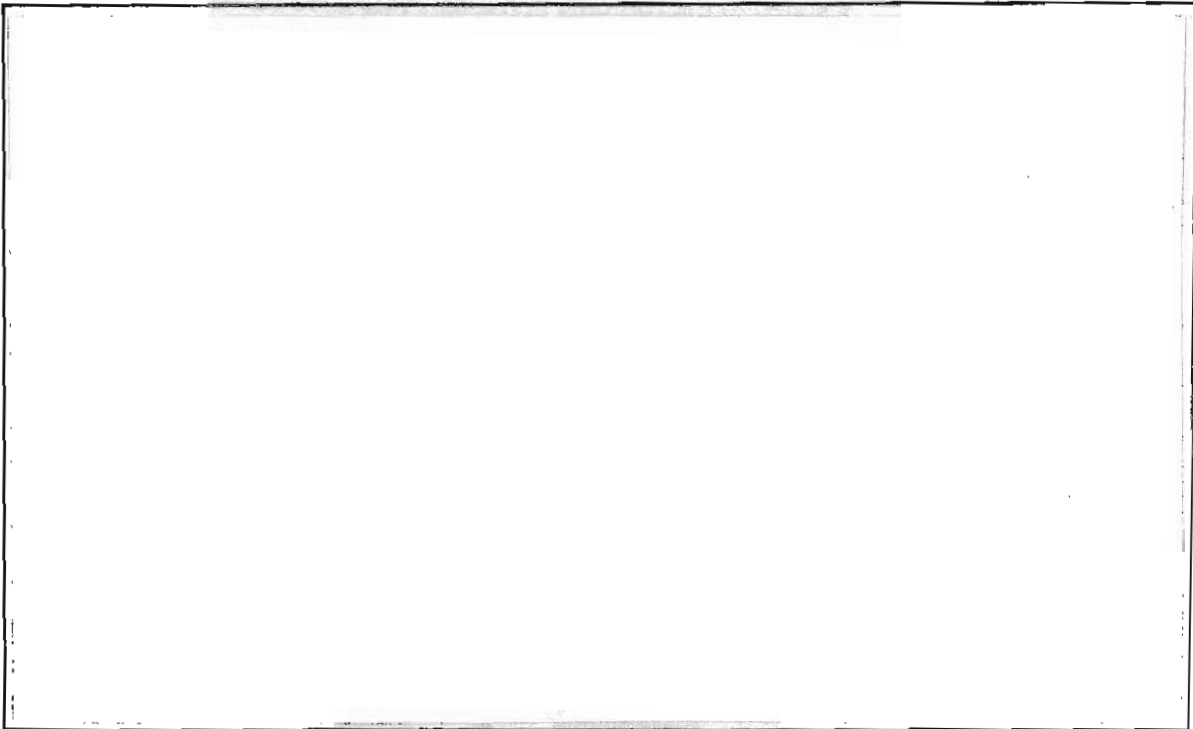
A handwritten signature in black ink, appearing to be 'R. Chadwick', with a long horizontal flourish extending to the right.

Dr Richard Chadwick
General Manager
Adjudication Branch

PROPOSED JOINT VENTURE ARRANGEMENTS

EXCLUDED FROM
PUBLIC REGISTER

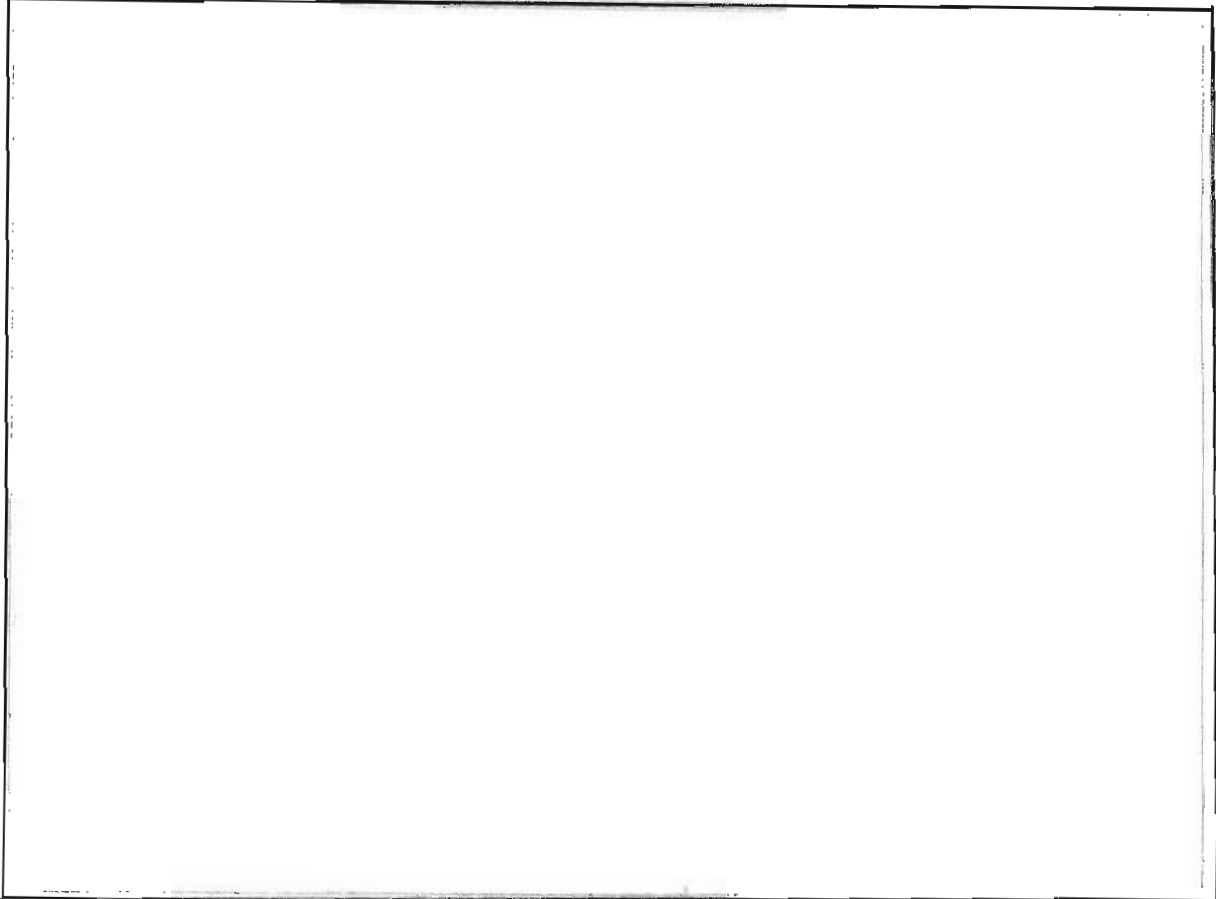
- 1.
- 2.
- 3.



COUNTERFACTUAL

EXCLUDED FROM
PUBLIC REGISTER

- 4.
- 5.



EXCLUDED FROM
PUBLIC REGISTER

6.

EXCLUDED FROM
PUBLIC REGISTER

7.

8. The Applicants' noted at page 17 of their submission dated 9 July 2009, that redeployment of long range aircraft is particularly difficult for new carriers such as V Australia that do not have any established long-haul operation in other markets. Accordingly is it likely that an airline the size of Delta has greater opportunities than Virgin to redeploy aircraft currently deployed on the trans-Pacific route?

9. What is the extent of domestic network benefits accruing to Virgin Blue from V Australia's trans-Pacific operations?

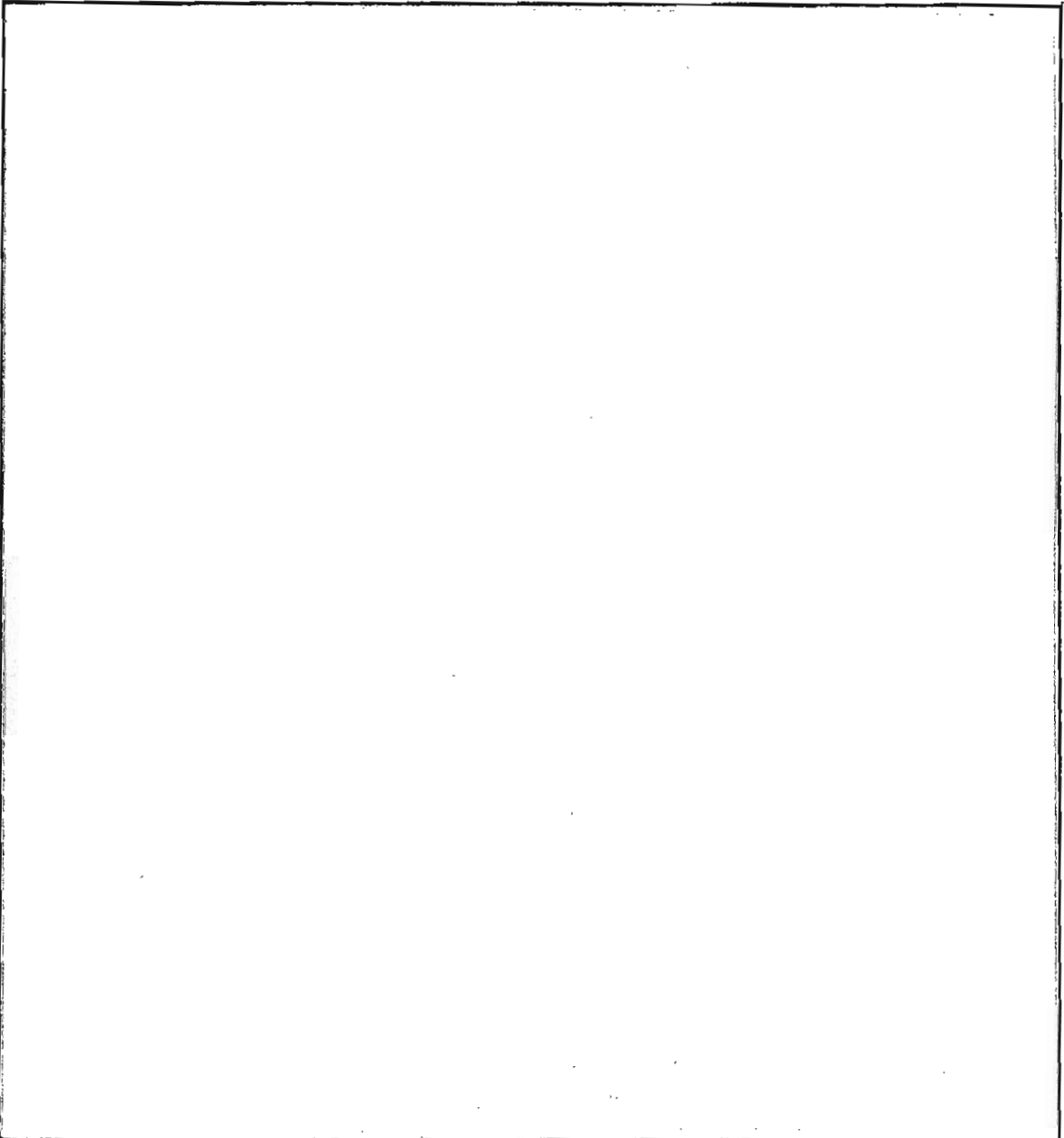
EXCLUDED FROM
PUBLIC REGISTER

PUBLIC BENEFITS

10.

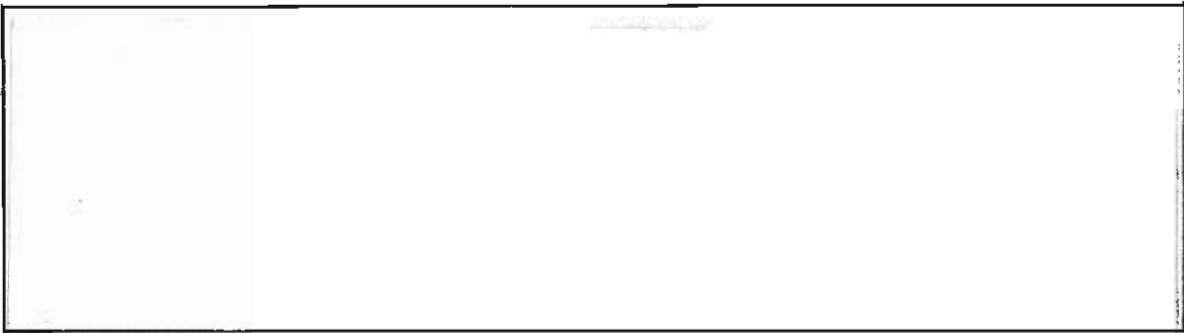


11.



EXCLUDED FROM
PUBLIC REGISTER

EXCLUDED FROM
PUBLIC REGISTER



PUBLIC DETRIMENT

EXCLUDED FROM
PUBLIC REGISTER

12.

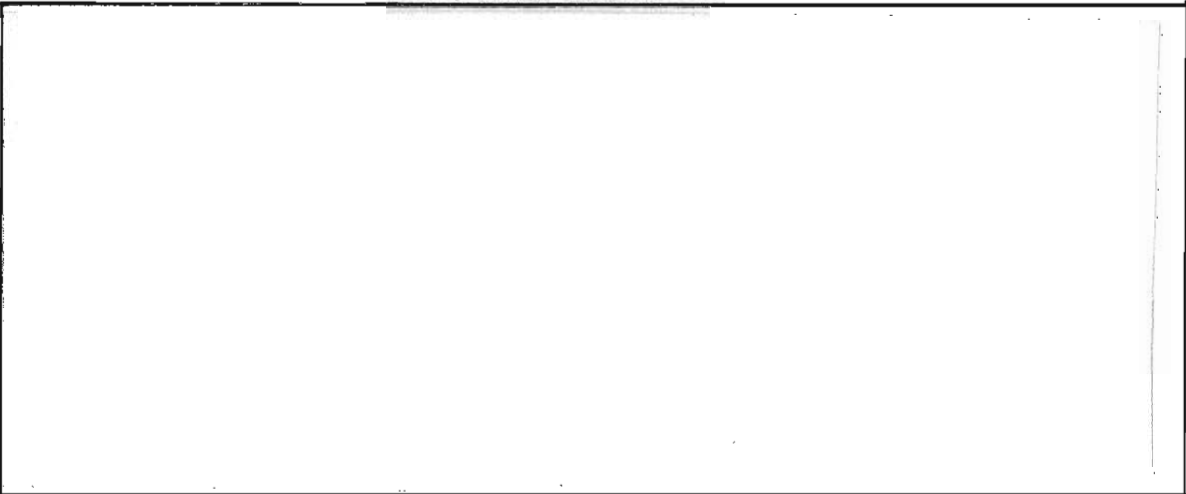


13. Tables 1 and 2 below show that V Australia is a price leader in business and economy classes for direct flights to the mainland USA by a substantial margin in economy class and a reasonable margin in business class.

In economy class, V Australia is the primary source of price competition with prices approximately a third lower than other direct carriers. Delta pricing by comparison is broadly consistent with the other legacy carriers on the route.

With the proposed Joint Venture providing for coordination of prices between Delta and V Australia is it more likely that agreed prices will move up towards the current Delta level or down towards the V Australia level? The Applicants' submission provides that the proposed Joint Venture would facilitate lower fares. What fare levels are the parties anticipating in the event the proposed Joint Venture is implemented?

14.



EXCLUDED FROM
PUBLIC REGISTER

15. In their submission of 9 July 2009, the Applicants have stated that alliances such as theirs enable carriers to offer lower fares overall as a result of the absence of double marginalisation incentives. In support they cite a study by J K Brueckner which shows that the elimination of double marginalisation has led to fare decreases of approximately 16%.

The Bruekner study was restricted to examining the benefits of code sharing over normal interlining on sequential routes, i.e. where the code share parties did not operate flights in parallel in competition with each other. The study did not extend to parallel code shares. However it did note that where alliance partners provide overlapping services cooperation may result in collusive behaviour and higher rather than lower fares.

Importantly the Bruekner study suggests that V Australia and Delta would incur substantial savings from their Limited Code Share proposal over normal interlining arrangements.

Why would code-sharing under the integrated alliance lead to the capture of a higher share of beyond passengers than under the Limited Code Share?

16. To what extent do LCCs in the USA such as Southwest compete for beyond traffic?

17.

18.

EXCLUDED FROM
PUBLIC REGISTER

Table 1. Quoted lowest economy class air fares on SYD/LAX route for next 6 months.

Lowest return fare available from Webjet on 23 September 2009 for travel on the 23 rd of the month indicated with return 8 days later					
Departure month	V Australia	Delta	United	Qantas	Cheapest other
Oct 2009	\$1,236	\$1,118	\$1,382	\$1,680	\$1,382(1)
Nov 2009	\$1,136	\$1,692	\$2,528	\$1,680	\$1,382(1)
Dec 2009	\$1,770	\$2,622	\$2,622	\$2,656	\$2,408(1)
Jan 2010	\$1,222	\$1,264	\$2,116	\$1,608	\$1,382(1)
Feb 2010	\$1,290	\$2,454	\$1,488	\$1,456	\$1,382(1)
Mar 2010	\$1,364	\$2,266	\$2,266	\$2,300	\$1,382(1)
<i>Average</i>	<i>\$1,336</i>	<i>\$1,903</i>	<i>\$2,067</i>	<i>\$1,897</i>	<i>\$1,553</i>

(1) Korean Air

Table 2. Quoted lowest business class air fares on SYD/LAX route for next 6 months

Lowest return fare available from Webjet on 24 September 2009 for travel on the 23 rd of the month indicated with return 8 days later					
Departure month	V Australia	Delta	United	Qantas	Cheapest other
Oct 2009	\$6,188	\$6,322	\$13,157(1)	\$9,322	\$6,512(2)
Nov 2009	\$6,264	\$9,450	\$6,323(3)	\$10,604	\$5,756(4)
Dec 2009	\$6,440	\$6,322	\$6,586	\$10,090	\$5,756(4)
Jan 2010	\$6,440	\$6,322	\$6,586	\$6,850	\$6,512(2)
Feb 2010	\$6,440	\$6,422	\$12,890	\$10,598	\$6,512(2)
Mar 2010	\$6,440	\$6,422	\$6,586	\$10,604	\$6,512(2)
Average	\$6,369	\$6,877	\$8,688	\$9,678	\$6,260

(1) No price on Webjet. Price sourced from UA website which indicated only one seat left for sale. (2) Korean Air. (3) No price on Webjet. Price sourced from UA website. (4) Asiana.

EXCLUDED FROM
PUBLIC REGISTER