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The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

Reference: Virgin Blue Group and Delta Airlines Inc applications for authorisation A91151 & A91152 - interested party consultation

Gentlemen:

Virgin Blue and Delta Airlines have proposed a joint venture where each airline flies a prearranged schedule and conducts joint marketing. This arrangement obviously entails joint pricing and a marriage of issues that generally exist in an otherwise anti-competitive business atmosphere.

This relationship is anti-competitive and I see no instance where the public can benefit from such a relationship. Collusion on all aspects of airline marketing will be consequential to the approval of such a relationship, including retail pricing, schedules, service levels (food quality, entertainment quality, seat pitch and cabin layout), equipment choice, staffing levels, to name a few.

I do see where the relationship will make money for the shareholders of the airlines at the expense of the travelling public. The approximate composition of primary travelers on the proposed route comprises Australians (70% of travelers on the route), North American residents (25%), and Europeans and others (5%). The Australian travelling public will, consequently, be the most affected by the Virgin-Delta relationship.

Let us examine the areas where impact of such a relationship may be felt.

Price Fixing:

The Virgin-Delta relationship will include one of price fixing by agreement. This is contradictory to United States anti-trust legislation unless a specific approval is granted, and Australian legislation which is governed by the ACCC.

Such approval for price fixing should not be granted since it will directly affect the cost of travel to millions of travelers of both Australia and the United States.

Impact on Tourism Generally:

Without projecting dollar estimates, since the intention of the Virgin-Delta marriage is to raise fares to a profitable level for both carriers, it will also raise the cost of travel to those potential travelers who might wish to purchase fare based travel in a competitive marketplace. The bulk of travelers using the Australia -- United States route are economy travelers on leisure programs, visiting friends and family, or simple tourism. These travelers are price sensitive and the higher the cost of the air portion, the less likely they are to take the trip, which will have obvious negative implications for inbound travel to Australia and to ground suppliers (hotels, tour providers, restaurants etc).

Such a marriage between two major travel suppliers which has the intention of raising fares by limiting capacity is detrimental to other sectors of the travel industry.

Other Carriers:

Qantas, Air New Zealand, Hawaiian Airlines, Jet Pacific, will not stand by and observe this marriage occur with two major air carriers without taking similar action. To permit a marriage in the market between Virgin and Delta will require a similar approval be granted to a similar relationship that was requested years ago by Air New Zealand and Qantas.

Air New Zealand and Qantas proposed a relationship some years ago, perhaps not identical to the Virgin-Delta marriage on the route, but the findings were that the Air New Zealand – Qantas relationship would have been anti-competitive and would have led to reduced capacity and higher fares on the route. The same test should be applied to the Virgin - Delta marriage, however with a greater burden to prove public benefit placed on Virgin and Delta than was even placed on the Air New Zealand -- Qantas relationship due to the increased market size that has evolved in the meantime. The size of the market has grown, as has the level of responsibility of these carriers to compete and to grow the market independently.

In-Flight Quality:

Competition encourages improvement in quality of a product or service. It is incrementally inexpensive for carriers to improve quality on long haul flights as we saw in pre-deregulation days where air carriers competed solely on a quality and service basis.

To approve the Virgin-Delta marriage will reduce competition, thus will reduce incentive for the carriers to improve quality, leading to a lower standard of quality and service on the route. This lower standard is likely to be seen with fewer amenities provided, poorer food quality, tighter seat pitch, less costly entertainment systems, yet at higher fares.

The carriers will propose that their joint venture benefit by joint marketing and code-sharing, yet the intended outcome will be fewer available seats at higher prices with fuller aircraft, obviously not a quality improvement for the passengers.

Air Safety:

No change in air safety is likely. This marriage is a marketing and anti-competition proposal, and air safety is unlikely to be affected.

Conclusion:

The only beneficiaries of a Virgin-Delta marriage on the United States-Australia route will be the management and shareholders of both carriers due to obvious higher fares and lower costs that will accrue as a result of this anti-competitive relationship. The tightening of the supply on the route due to this marriage will reduce competition, raise fares, lower quality standards, all to the detriment of the travelling public. Subsequent higher fares will reduce customer demand leading to fewer tourists traveling in both directions to the detriment of the inbound travel industry.

It is not the travelling public's obligation to ensure profitability of a supplier; after all, competition in a free market is supposed to provide a level playing field in which suppliers of a product can compete on price and quality with the consumer benefitting. To permit this Virgin – Delta marriage will run against all basic principles of free competition and I can see no benefit to any sector other than to the management and shareholders of each carrier. The entire proposal seems to be one of desperation by two air carriers seeking to reduce competition and to subsequently raise revenues.

I strongly recommend against the approval of any type of joint marketing, code sharing, or joint venture between these carriers.

Very Truly Yours,

Patric Barry

Qualifications of the writer:

Patric Barry is an airline manager and consultant, having developed international marketing for AirCal and Jet America, two mid-level United States carriers with international route networks that were acquired by major carriers. Mr. Barry assisted in writing the business plan for two air carrier start ups and served as the CEO for a planned airline start up in Australia. Mr. Barry is also a US FAA approved maintenance inspector with an Inspection Authorization from the Federal Aviation Administration, and is a certificated Airline Transportation Pilot. Mr. Barry earned a Masters in

Business Administration degree from Pepperdine University in the United States and holds dual Australian and United States citizenship.