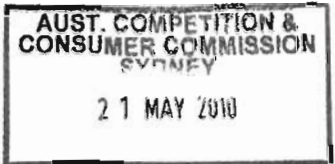


Acting Deputy General Counsel – Competition  
Michele Laidlaw



File No:

21 May 2010

Dr Richard Chadwick  
General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
PO BOX 1199  
Dickson ACT 2602  
adjudication@acc.gov.au

Dear Dr Chadwick

**Third Line Forcing Notification: Jetstar Airways Pty Limited**

We are filing this notification on behalf of Jetstar Airways Pty Limited (**Jetstar**), a wholly owned subsidiary of Qantas Airways Limited (**Qantas**).

Enclosed with this letter is:

- a Form G exclusive dealing notification pursuant to section 93(1) of the Trade Practices Act 1974 (**TPA**); and
- a cheque for the sum of \$100, being the prescribed lodgement fee.

This notification is lodged in respect of conduct that may amount to third line forcing and contravene sections 47(6) and 47(7) of the TPA.

Set out below is a description of the proposed conduct and reasons why Qantas believes the Commission should not serve a notice under s 93(3A) of the TPA.

**Notified Conduct**

This notification concerns promotions being run by Jetstar in conjunction with WTH Pty Ltd trading as Avis Australia (**Avis**) and Budget Rent a Car Australia Pty Ltd (**Budget**).

From time to time Jetstar will give or allow, or offer to give or allow, a discount or credit (i.e. a voucher) in relation to the supply of Jetstar flights and/or other travel content that can be purchased in Australia via [www.jetstar.com](http://www.jetstar.com) or Jetstar's call centre on condition that the customer acquires car rental services from Avis or Budget.

For each campaign, the car rental services must be booked through either the Jetstar website ([www.jetstar.com](http://www.jetstar.com)) or via the Jetstar call centre and must be used within a set period. For each campaign, the value of the Jetstar travel voucher will be in the range of \$20 - \$100.

The voucher will be issued within one month of the car hire being completed. The voucher must be used within three months for travel up to six months from the date of the car hire completion.

**Competition Assessment**

**Relevant Market**

The markets likely to be relevant to the notified conduct are the markets in Australia for:

- the provision of passenger air services to various domestic and international destinations;
- the sale of travel content, through direct and indirect channels; and

**Qantas Airways Limited**  
ABN 16 009 661 901  
203 Coward Street Mascot New South Wales 2020 Australia  
Telephone 61 (2) 9691 3456 Facsimile 61 (2) 9691 4950

- the provision of car rental services.

The market for the provision of passenger air services in Australia is highly competitive and consumers have a number of options available to them. Several major airlines, including Virgin Blue and Tiger Airways, offer passenger air services in Australia and over 20 airlines service international destinations. Major travel agency chains distribute travel services in Australia, in addition to many smaller independent agencies and online booking facilities.

Similarly, the market for the sale of travel content is highly competitive. Consumers can acquire travel content direct from suppliers such as airlines, major hotels or through agents or other intermediaries. They can also acquire "packaged" airfare and travel content. This market includes online booking channels as well as more conventional "bricks and mortar" retail outlets.

Finally, the market for the provision of car rental services is equally competitive. Consumers have a number of options available to them, including services provided by Thrifty, Hertz, Europcar and other smaller car rental companies. These car rental services can be booked directly with the providers or through online booking facilities offered by other travel content providers such as Flight Centre, lastminute and Expedia.

#### No Detriment

The notified conduct does not involve the forced purchase of a second product. Jetstar customers remain free to obtain flights and other travel content from Jetstar without having to acquire products from Budget or Avis. Similarly, Budget or Avis customers remain free to obtain car rental services through any direct or indirect booking channels and are not required to book through Jetstar.

#### Net Benefit

The notified conduct will benefit the public as it will:

- provide Budget and Avis customers with access to cheaper air fares and/or travel content; and
- encourage competitors to provide similar benefits.

If you have any further questions regarding this matter call please telephone me on +61 2 9691 5799.

Yours sincerely



**Michele Laidlaw**  
Acting Deputy-General Counsel - Competition

21 MAY 2010

**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)

Jetstar Airways Pty Limited ABN 33 069 720 243

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

Operation of international and domestic air travel and related services

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

Michele Laidlaw  
Acting Deputy General Counsel – Competition  
Qantas Airways Limited  
203 Coward Street  
Mascot NSW 2020

**2. Notified arrangement**

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

The provision of passenger air travel services and other travel content and car rental services in Australia.

- (b) Description of the conduct or proposed conduct:  
(Refer to direction 4)

From time to time Jetstar will give or allow, or offer to give or allow, a discount or credit (i.e. a voucher) in relation to the future supply of Jetstar flights and/or other travel content which can be purchased via [www.jetstar.com](http://www.jetstar.com) or Jetstar's call centre on condition that the customer acquires car rental services from Avis or Budget through either the Jetstar website ([www.jetstar.com](http://www.jetstar.com)) or via the Jetstar call centre.

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**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)

Persons who acquire car rental services from Budget or Avis in accordance with the terms and conditions of each promotion.

- (b) Number of those persons:

- (i) At present time:

Approximately: 5 400 customers per month

- (ii) Estimated within the next year:  
(Refer to direction 6)

Approximately: 64 800 customers

- (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)

The notified conduct will benefit the public as it will:

- provide Budget and Avis customers with access to cheaper air fares and/or other travel content; and
- encourage competitors to provide similar benefits.

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

See 2(b) and 4(a) above.

**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 markets likely to be relevant to the notified conduct are the markets in Australia for:

- the provision of passenger air services to various domestic and international destinations;
- the sale of travel content, through direct and indirect channels; and
- the provision of car rental services.

The market for the provision of passenger air services in Australia is highly competitive and consumers have a number of options available to them. Several major airlines, including Virgin Blue and Tiger Airways, offer passenger air services in Australia and over 20 airlines service international destinations. Several major

travel agency chains distribute travel services in Australia, in addition to many smaller independent agencies and online booking facilities.

Similarly, the market for the sale of travel content is highly competitive. Consumers can acquire travel content direct from suppliers such as airlines, major hotels or through agents or other intermediaries. They can also acquire "packaged" airfare and travel content. This market includes online booking channels as well as more conventional "bricks and mortar" retail outlets

Finally, the market for the provision of car rental services is also highly competitive. Consumers have a number of options available to them, including services provided by Thrifty, Hertz, Europcar and other smaller car rental companies. These car rental services can be booked directly with the providers or through online booking facilities offered by other travel content providers such as Flight Centre, lastminute and Expedia.

**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)

We submit there is no public detriment associated with the conduct. The notified conduct does not involve the forced purchase of a second product. Jetstar customers remain free to obtain flights and/or other travel content from Jetstar without having to acquire products from Budget or Avis. Similarly, Budget or Avis customers remain free to obtain car rental services through any direct or indirect booking channels and are not required to book through Jetstar.

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

See 6(a) above.

**7. Further information**

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

Michele Laidlaw  
Acting Deputy General Counsel – Competition  
Qantas Airways Limited  
203 Coward Street  
Mascot NSW 2020  
Ph: 02 9691 5799

Dated: 21 May 2010

Signed on behalf of the applicant



Michele A Laidlaw  
Qantas Airways Limited  
Acting Deputy General Counsel – Competition



## DIRECTIONS

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the business of the person giving the notice in the course of the which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 of the *Trade Practices Act 1974* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.