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14 September 2010

By email

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Dear Dr Chadwick

Virgin Blue and Etihad Airways – Application for Interim Authorisation – further submission

We refer to the submission provided by Qantas on 9 September 2010 in relation to the application for interim authorisation made by Virgin Blue and Etihad Airways (**the Applicants**) pursuant to section 91(2) of the *Trade Practices Act 1974 (the Act)*.

As outlined in the Applicants' submission dated 27 August 2010 (**the Submission**), the Applicants seek interim authorisation for the Alliance to ensure that the launch of V Australia's new services to Abu Dhabi in February 2011 is successful.

Qantas has expressed its "concern" in relation to the grant of interim authorisation and has submitted that it is more appropriate for the ACCC to consider the Alliance in totality before the Applicants begin cooperation.

While Qantas alludes to a change to market dynamics in its submission, no competitive or other detriment generally or to Qantas specifically is identified. This is not surprising, given that without the Alliance, V Australia would not be able to operate services to Abu Dhabi and would not be able to offer connecting code share services to destinations beyond Abu Dhabi, including Europe. If Qantas's position was to be adopted, it would simply have the self-serving result of delaying a pro-competitive initiative, in which Virgin Blue, through V Australia, and Etihad Airways will provide increased competition to Qantas. Delaying the Alliance would be to the detriment of passengers.

In its submission, Qantas ignores the Submission in support of the application for interim authorisation and raises a number of merit-less issues. The Applicants respond to the various claims made by Qantas below.

Qantas: "The Applicants have not expressed in any detail the specific activities to be undertaken and the scope of cooperation required to implement each of these stages."

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This is simply incorrect. The Applicants seek interim and full authorisation for the Alliance, which is detailed in the applications filed with the ACCC. The scope of the Alliance is set out in the Submission and copies of the Alliance agreements have been provided to the ACCC.

As a first step, Virgin Blue and Etihad Airways have agreed, subject to authorisation, that Virgin Blue will commence 3 weekly V Australia flights between Sydney and Abu Dhabi from February 2011, as part of moving to a joint double daily SYD-AUH schedule with Etihad Airways (which currently operates 11 weekly services).

Etihad Airways has agreed to make available scheduled departure times in its current schedule for the V Australia flights. V Australia will commence these services using aircraft redeployed from its current Johannesburg and Phuket services. These services will commence immediately on the grant of authorisation.

Due to the long lead times required to attract a sufficient number of passengers to make new long haul services successful, Virgin Blue and Etihad Airways will need to commence the marketing and sale of these services as soon as possible.

The criticism made by Qantas of a lack of detail has no credibility. In contrast to the detailed explanation provided in relation to the launch of the 3 new V Australia Abu Dhabi services, we note that Qantas sought and was granted interim authorisation in 2006 for its Alliance with Orangestar on the basis that: *Given airline planning and scheduling timeframes, this means co-operation between the Qantas Group and the Orangestar Group needs to commence immediately to ensure the relevant schedule is in place.* No other explanation was provided.

Qantas: "Without this information it is very hard to test the merits of the claim for commercial urgency."

This claim is without merit, given that Qantas must appreciate the substantial lead time required to ensure the success of services that commence in less than 6 months, and the fact that these matters were addressed in the Submission.

Qantas would be well aware of the commercial urgency in relation to the launch and marketing of new long haul services, as is apparent from Qantas's submission in the Orangestar application referred to above.

Qantas: "the Alliance represents a significant change to the dynamics of the relevant markets which would not be easily corrected if final authorisation was denied."

The implicit premise of the Qantas submission is that there is some unspecified and enduring adverse effect of the Alliance on the "dynamics of the relevant markets". There is no basis for this position; the Alliance can have no adverse effect on competition on any relevant route as, without the Alliance, V Australia will not operate to the Middle East and will not be able to offer services to destinations beyond/behind Abu Dhabi.

Qantas has also queried whether the Applicants propose to coordinate prices between Australia and the UK/Europe and have noted that the Alliance would require cooperation on these connecting services. It is intended that under interim authorisation the Applicants would jointly set prices on connecting services via Abu Dhabi to Europe and the UK.

As is standard practice with such alliances, it is intended that there will be, and authorisation is sought for, full cooperation between the Applicants in terms of joint marketing, distribution, sales (including joint pricing) and joint scheduling across the Applicants' networks. We note that there is currently no overlap in these networks and while there will be overlapping services between Australia and Abu Dhabi, this is only possible under the Alliance.

We note that the cooperation envisaged under the Alliance is similar to that under the authorised Qantas/ British Airways (BA) Joint Services Agreement (JSA), which provides for the coordination of airline services between Qantas and BA primarily on services between Australia and Europe, including services between Australia and the UK/Europe and intermediate points such as Bangkok and Singapore. The coordination embraces scheduling, marketing, sales, freight, pricing and customer service activities. The JSA also provides for code sharing between the two airlines.

In these circumstances, Qantas' opposition to the Alliance is without merit. Qantas' opposition would have the effect of protecting Qantas from enhanced competition from V Australia/Etihad. Unlike the position under the Qantas/BA JSA, V Australia would not be a competitor on these routes without the Alliance.

The ability for V Australia to provide services to points beyond/behind Abu Dhabi, only made possible under the Alliance, is an important benefit to passengers. Given this, the grant of interim authorisation will enable the significant benefits of the Alliance to be made available to passengers more quickly, without any anti-competitive detriment.

Qantas: *"...the Applicants have not established that they will suffer harm if interim authorisation is not granted ..."*

This is also incorrect. As explained in the Submission, on 26 August 2010, Virgin Blue announced that V Australia's Johannesburg and Phuket services will be discontinued from 24 February 2011 and immediately stopped selling these services. In short, the aircraft which will be diverted from the Johannesburg and Phuket services to the proposed Abu Dhabi services will be empty from 24 February 2011 unless Interim authorisation is granted. With interim authorisation, V Australia can immediately plan the scheduling of this aircraft from 24 February 2011 on the Abu Dhabi service and can commence selling those services, minimising costs and avoiding revenue loss from idle aircraft.

Qantas: *"...passengers will suffer considerable harm and inconvenience if tickets are booked on a new service during the interim period but final authorisation is ultimately denied."*

We note that this was precisely the same theoretical possibility as with the Qantas–Orangestar application. As addressed in the Submission, the Applicants have in place route protection arrangements to ensure that, in the event that V Australia does not operate the 3 proposed services from February 2011, passengers will be accommodated on other Etihad services. Such arrangements are common in the aviation industry, when airlines may be required to discontinue a service.

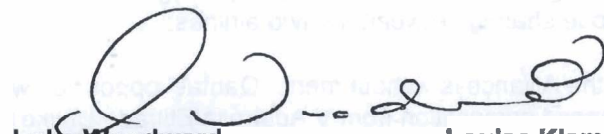
Qantas: *"...absent compelling reasons to circumvent an established statutory process..."*

The suggestion that the Applicants are circumventing the statutory process is without foundation and should be withdrawn. There is a clear process for the grant of interim authorisation (one which Qantas has used in the past) and the Submission addresses the considerations identified in the ACCC's *Guide to Authorisation* as relevant to the grant of interim authorisation.

We reiterate the Applicants' request for interim authorisation so that they can schedule and begin to market the 3 additional services to Abu Dhabi as soon as possible. It is both parties' intention to provide maximum benefits to the Australian travelling public (both individual and corporate) by jointly providing a more competitive product with other carriers operating in the Australian market.

Please note that that the Applicants would welcome the opportunity to discuss their application, including the application for interim authorisation at the convenience of the ACCC.

Yours sincerely



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