



26 September 2010

Dr Richard Chadwick
General Manager
Adjudication Branch
Australian Competition & Consumer Commission
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Canberra ACT 2601
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Dear Dr Chadwick

Re: C2010/453 – Virgin Blue Airline and others in respect of an airline alliance between the applicants

VIPA is a professional organisation that represents Virgin Blue Group pilots in Australia.

VIPA is a registered employee industrial organisation, pursuant to the Fair Work Act, and is affiliated to the ACTU. VIPAs core business is the industrial and professional representation of Virgin Blue Group pilots and the aviation industry in Australia. VIPA also participates in the development of policy in aviation safety and professional standards.

VIPA members are employed in the enterprises within the Virgin Blue group such as Virgin Blue, V Australia and Pacific Blue.

As professionals in the aviation industry, we would like to support the applications lodged by Virgin Blue Airlines (Aust) Pty Ltd, Pacific Blue Airlines (NZ) Limited and Air New Zealand Limited for authorisations 91227 and 91228.

VIPA takes the view that the proposed authorisations will assist the public benefit (as set out in Professor Fells paper of 12 July 2001 entitled The Public Benefit Test in Australia in the Trade Practises Act 1974 and set out at paragraph 3.3 of the interim ACCC Determination) which is set out broadly and relevantly below:

“Public benefit has been, and is, given a wide ambit ... [as] anything of value to the community generally, any contribution to the aims pursued by the society including as one of its principal elements (in the context of trade practices legislation) the achievement of the economic goals of efficiency and progress.”

VIPA – ABN: 81 242 166 461

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VIPA believes that this alliance will strengthen the Australian aviation industry with greater economic efficiencies and synergies between Virgin Blue and Air New Zealand. One relevant aspect for VIPA to consider is that the proposal will strengthen the Virgin Blue Group Australian operations and allow greater stability for the Group as a whole to operate and service the Australian international market.

VIPA supports the application on the basis that not only will the proposed arrangement strengthen Virgin Blue, but also see the increase of Australian pilots employed by the Virgin Blue Group. VIPAs position is that any submission would be on the basis of not effecting Australia domestic operations with this alliance or arrangement.

VIPA also understands that business efficiencies of this arrangement will lead to improved international competitiveness particularly when any arrangement considered by Etihad is also taken into account by the ACCC.

We note that the Draft Determination does not specifically mention the expansion of employment or prevention of unemployment in efficient industries or employment growth in particular regions which has been set out in Professor Fells paper mentioned above. VIPA would submit that the public interest test should be broadly applied to ensure that the sustainability of an Australian industry is also included in this spectrum of considerations. It is VIPAs view that the proposal will have a positive effect on the expansion of Australian jobs, particularly when considering the Etihad submission, and also the recent, what we hope is, reorientation of Virgin towards long term sustainability of the airline as a credible and responsible player within the Australian aviation sector.

VIPA would also submit that on the basis and assumption that the above leads to greater expansion of Australian aviation jobs and that these roles were to be filled by Australians working directly for the Australian based entity such as Virgin Blue Airlines Pty Ltd. Further that these potential new employment opportunities and hence positions are subject to the Fair Work Act that allows the input of responsible stakeholders such as VIPA. If this is the case, then the prospects for industrial harmony should also be a consideration for the public benefit test and possibly consideration of the operation of s 88 (1A) and (1) of the Trade Practices Act.

Understandably VIPA does not have the capacity to perform qualitative analysis on the Australian aviation sector. Therefore VIPA believes that the public detriment test should also be given closer scrutiny with regard to the effect on Australian aviation jobs and determine whether there would be a net disbenefit for the Australian Virgin Blue Group operations from this alliance. Relevantly the public detriment test is set out as being:



"... any impairment to the community generally, any harm or damage to the aims pursued by the society including as one of its principal elements the achievement of the goal of economic efficiency"

VIPA believes there will be no net disbenefit from this arrangement, but that as a precautionary measure the ACCC should further address this aspect in its final determination.

In closing VIPA submits that the growth of Virgin Blue Group operations in Australia, by way of this alliance, would result in a number of positive and significant economic multiplier effects for Australia and the aviation industry.

We can, if necessary, elaborate on our submission and provide further details on the above listed areas of VIPAs position.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Simon O'Hara", is positioned below the "Yours sincerely" text.

Simon O'Hara
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Executive Director
VIPA