



**Australian
Competition &
Consumer
Commission**

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Our Ref: A91227 & A91228
Contact Officer: Teresa Nowak
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8 October 2010

Dear Sir/Madam

**Virgin Blue Airlines Pty Ltd & Ors applications for authorisation A91227 & A91228
- PRE-DECISION CONFERENCE**

Wellington International Airport has requested that the Australian Competition & Consumer Commission (the ACCC) convene a conference in relation to the draft determination issued by the ACCC on 10 September 2010 proposing to deny authorisation A91227 & A91228.

The draft determination follows applications by Virgin Blue Airlines Pty Ltd, Pacific Blue Airlines (Aus) Pty Ltd, Pacific Blue Airlines (NZ) Limited (together Virgin Blue) and Air New Zealand Limited (Air New Zealand). Virgin Blue and Air New Zealand are seeking authorisation to make, and give effect to, the Australasian Airline Alliance Agreement, an associated Code Share Agreement and proposed related agreements which are contemplated by the Alliance Agreement (together the Alliance). The Alliance provides for coordination and agreement between Virgin Blue and Air New Zealand in respect of trans-Tasman passenger services.

The ACCC concluded in its draft determination that overall it was not satisfied that the public benefit flowing from the proposed arrangements is likely to outweigh any anti-competitive detriment and proposed to deny authorisation to the application. A copy of the application and draft determination can be found on the ACCC's website <www.accc.gov.au>.

A pre-decision conference provides a valuable opportunity for applicants and interested parties to make oral submissions to the ACCC about its draft determination.

The ACCC will hold the conference on **18 October 2010**, at The Grace Hotel, 77 York Street Sydney NSW Australia. The conference will commence at 11:00am. Mr Peter Kell, Deputy Chair, will chair the conference.

Under the *Trade Practices Act 1974* (the Act), the conference may be attended by the applicant and other interested parties. If you wish to attend, you must notify the ACCC of your intention by **cob Tuesday, 12 October 2010** and briefly indicate why you or your

company or organisation has an interest in the matter. Notifications must be in writing and addressed to:

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2602

You can also notify the ACCC by e-mail to: adjudication@accc.gov.au or by facsimile on 02 6243 1211.

You should provide details of a contact name, telephone number, mailing address and, if possible, a facsimile number or e-mail address so that you can be notified of any late changes to conference arrangements.

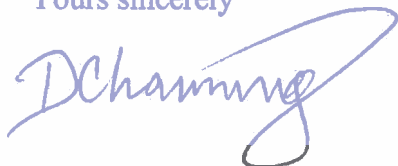
If you represent a company or organisation you should also provide a list of attendees and their position titles, and indicate who will be the chief spokesperson.

I would also note that, while conference participants may bring outside legal or other professional advisers to assist them, the Act prohibits these advisers from participating in conference discussions.

Attached for your information are procedures usually followed at pre-decision conferences.

A copy of this letter has been placed on the ACCC's public register. If you require any further information in regard to the conference or wish to clarify whether you may be considered an 'interested person' within the terms of the Act, please do not hesitate to contact Jessica Buik on 02 6243 4940.

Yours sincerely

A handwritten signature in blue ink that reads "DChanning". The signature is stylized with a large, sweeping flourish at the end.

Darrell Channing
Director
Adjudication Branch

AN OUTLINE OF THE PROCEDURES USUALLY FOLLOWED AT CONFERENCES IN RELATION TO APPLICATIONS FOR AUTHORISATION

The Australian Competition and Consumer Commission (ACCC) tries to conduct such conferences as informally, flexibly and speedily as possible.

An interested party attending a conference may have the assistance of outside legal or other professional advisers, however, they are not entitled to participate in the discussion.

The conference will serve a useful purpose in that it gives the ACCC and all interested parties the opportunity to meet face-to-face to discuss the operation and effect of the applicant's conduct and the ACCC's draft determination. The applicant and/or interested persons have the opportunity to persuade the ACCC to accept their view. The ACCC benefits from direct contact with the parties, and its perceptions of public benefits and detriments are tested in a forum of interested parties where points are often quickly and forcefully made.

1. Preliminary procedures

- (a) When you arrive at the conference you should identify yourself to ACCC staff before the conference begins. Further, please complete the attendance book when arriving at the conference. This assists ACCC staff to identify attendees for the purpose of recording the discussion.
- (b) The Chair (a Commissioner) will open the conference by welcoming those present and outlining the requirements of the *Trade Practices Act 1974* and the manner in which the conference will be conducted.
- (c) If you intend to present a written comment (and you are encouraged to do so), it is helpful if the ACCC receives it before the conference date. It can then be copied and distributed at the conference. In this way, both the ACCC and other parties present are assisted, and your submission forms part of the conference record. If you cannot complete the written submission earlier, it is helpful if you come to the conference with extra copies which can be distributed.
- (d) Any document you present without making any request for it to be excluded from the public register will be placed on the ACCC's public register.

If you intend to present a submission at the conference and you wish it (or certain details in it) to be excluded from the public register, you should make your request to the Chair at the time of presenting the document, and you should state in general terms the reason for your request. (See ACCC guidelines on excluding information from the public register.)

General procedures

- (a) The conference has been convened to discuss the draft determination, to canvass points of view and to assist the ACCC's weighing of issues and its interpretation of the information given to it.

- (b) The procedure is discretionary. The Chair controls the order of discussion, and may take particular topics separately, so that all the discussion, on any given topic may be heard at the one time.
- (c) The conference is not a court, and there is no right of cross-examination. You may request the Chair to ask questions of other parties present, but the Chair retains the discretion as to whether your questions will be put. The Chair, of course, may also directly question the parties at the conference, and they have discretion whether or not to answer.
- (d) ACCC staff present will make a record of the discussion. This will be in minute form, not a verbatim record. The conference record is placed on the public register, and all who attend the conference will receive a copy.
- (e) When the Chair believes that all present have been given a reasonable opportunity to express their views, he/she may terminate the conference.
- (f) The Chair (and any other Commissioner at the conference) cannot give a final decision at the close of the conference. Each Commissioner is only a representative of the ACCC and is required to report back to the ACCC, which will make the final decision.

3. Other matters

- (a) Following the pre-determination conference, the ACCC will review its draft determination in the light of discussion and further submissions made at the conference (or within a set period of time after the conference), and will publish its final determination as soon as possible thereafter.
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**Virgin Blue Airlines Pty Ltd & Ors applications for authorisation A91227 &
A91228
- PRE-DECISION CONFERENCE**

INTERESTED PARTIES CONSULTED 8 OCTOBER 2010

1. Auckland International Airport
2. Cairns Airport Pty Ltd
3. Canberra Airport
4. Continental Airlines
5. David Maclure
6. Department of Infrastructure, Transport, Regional Development and Local Government
7. Gold Coast Airport Pty Ltd
8. Gulf Air
9. Hamilton International Airport
10. International Air Services Commission
11. JumpJet Airlines Limited
12. The Key Wellington Stakeholders Group
13. K.I.S.S Travel International
14. Melbourne Airport
15. Mr Konemann
16. Mr Wakeman
17. New Zealand Airports Association
18. New Zealand Ministry of Transport
19. Skywest
20. Sydney Airport Corporation
21. Tiger Airways Australia Pty Limited
22. Tourism Australia
23. Tourism NT
24. VIPA
25. Wellington International Airport
26. Wellington Regional Chamber of Commerce