



Australian Government

Department of Infrastructure and Transport

Dr Richard Chadwick
General Manager, Adjudication
Australian Competition and Consumer Commission
23 Marcus Clarke Street
Canberra Act 2601

Dear Dr Chadwick,

Virgin Blue Airlines Pty Ltd and Etihad Airways Limited applications for authorisation

Thank you for your letter of 27 August 2010. The Department of Infrastructure and Transport (the Department) welcomes the opportunity to provide a submission to the ACCC on the proposed alliance between the Virgin Blue Group (Virgin Blue) and Etihad Airways Limited (Etihad).

The Department recognises that it is a matter for the ACCC to determine the relative merits of arguments presented by the applicants on the public benefits and the effect on competition of the proposed alliance. However, to assist the ACCC in coming to a determination, this submission will provide contextual information on the relevant aviation market, the air service arrangements which underpin it and the Australian Government's aviation policy.

Regulatory framework and Australian Government policy

The regulatory framework governing international air services is complex. While most sectors of international trade operate on the assumption that markets are open unless governments intervene to restrict access, international aviation cannot occur unless governments act to open the market. This action occurs in the form of at least two governments negotiating and signing an air services agreement, specifying that international air travel can occur between their respective territories. Air services are contrary to most other internationally traded products, as without the cooperation of at least two governments, the product cannot be traded and the market would not exist.

As you would be aware, the Department is responsible for negotiating air services agreements with foreign governments. These bilateral agreements typically set out the number of flights that airlines of the two countries can operate, cities they can serve in the other country and rights to operate via or beyond to third countries. The agreements typically also include provisions related to such matters as airline ownership and control, competition law, safety and security.

The International Air Services Commission is responsible for allocating the available capacity negotiated under air services agreements to the Australian airlines that apply to operate internationally.

The Australian Government released the National Aviation Policy White Paper on 16 December 2009. In the White Paper, the Government outlined its commitment to pursuing the liberalisation of international aviation to benefit consumers, broader Australian industry and provide Australia's airlines with the opportunity to compete effectively with their global rivals. The White Paper also stresses the importance of ensuring a strong Australian-based aviation industry.

Air services arrangements between Australia and the United Arab Emirates (UAE)

The Agreement between the Government of Australia and the Government of the United Arab Emirates relating to Air Services, done at Dubai on 8 September 2002, [2005] ATS 8, supplemented by the Memorandum of Understanding between aeronautical authorities signed in Canberra on 8 February 2010 (together the arrangements) outlines the capacity entitlements of air services between the two countries. These air services arrangements currently allow designated airlines of the UAE to operate 28 services per week, with a maximum of 14 services to any one point, between Abu Dhabi and Australian gateway points (Sydney, Melbourne (including Avalon), Brisbane and Perth). Australian carriers can operate 105 services per week between Australian Gateway Points and the UAE, using any type of aircraft. Airlines of both countries are able to serve any intermediate points and all beyond points. We note that airlines operating via intermediate points would also need to operate in accordance with air services agreements between their home governments and the governments of the intermediate countries.

The Memorandum of Understanding (MOU) between Australia and the UAE provides for designated airlines to conduct code share operations. Specifically, paragraph 19 states that, 'In operating or offering the agreed services on any segment or segments of the specified routes, any designated airline of each Contracting Party may enter into code sharing arrangements, as marketing and/or operating airline, with any other airline(s)'.

Paragraph 18 of the MOU permits any designated airline of Australia fifth freedom rights to any point beyond the UAE. Accordingly, Australian airlines can operate to the UAE and beyond without entering into a code share arrangement or alliance. It is then a commercial decision for the individual airlines of each country to determine whether to utilise these rights by providing services.

The proposed alliance between Virgin Blue and Etihad is consistent with the authority granted under paragraph 18 and 19 of the arrangements.

Status of the Market

The international aviation market has experienced strong upward demand throughout 2010 with global passenger traffic 3% higher than it was prior to the Global Financial Crisis period of early 2008. International Air Transport Association (IATA) statistics

show that compared to July 2009 international passenger demand was up 9.2% in July 2010¹.

Globally, Middle Eastern carriers continue to add the largest amount of passenger capacity of any region, with an increase of 13.2% over the first seven months of 2010². The United Arab Emirates (UAE) has seen a 25.7%* increase in passenger traffic from Australia to the year ending June 2010, which represents 6.8%* of total airline traffic departing Australia.

In terms of international markets served from Australia, Qantas Airways remains the dominant carrier in the market, moving 19.5% of international passengers for the year ending June 2010. Singapore Airlines (9.7%), Air New Zealand (8.0%) and Emirates (8.0%) also maintain significant market share. V Australia's and Etihad Airways' market share for the same period was 1.9% and 1.8% respectively.

*Provisional figures only.

United Arab Emirates (UAE)

At present, Emirates Airlines and Etihad Airways are the only two airlines operating flights between Australia and the UAE. During the Northern Summer 2010 scheduling period the following services were operated:

- **Emirates Airlines;** operated 70 weekly services (22,477 seats) to and from Australian destinations from the port of Dubai; and
- **Etihad Airways;** operated 21 weekly services (6042 seats) to and from Australia destinations from the port of Abu Dhabi (All Etihad flights are currently operated under code share arrangements with Qantas and Middle East Airlines).

Currently, no Australian airline utilises any of the 105 services available to UAE. The proposed alliance between Virgin Blue and Etihad Airlines would facilitate the first Australian airline entrant into the Australia – UAE market in a considerable period. In addition, an increase in services to Abu Dhabi would deliver a broader reach into the Europe/United Kingdom (UK) market by Australian carriers and provide Australian consumers with a choice of two Australia airlines when travelling to these beyond destinations.

According to 2010 passenger card data collected by the Department of Immigration and Citizenship (DIAC) approximately 31.9% of passengers on Emirates flights from Australia have an origin-destination of the UK, while only 11.3% state the UAE as a first or last port of call. Other European destinations such as Italy (8.0%), Germany (4.7%) and France (4.4%) also benefit from onward flights operated by Emirates.

The origin-destination pattern of Emirates is mirrored by Etihad flights to and from Australia, with 24 % of passengers leaving or heading to the UK (plus an additional

¹ International Air Transport Association (2010). Press Release 25 August 2010 – No: 36, Strong Demand Continues – Recovery Enters Second Slower Phase.

² International Air Transport Association (2010). Press Release 25 August 2010 – No: 36, Strong Demand Continues – Recovery Enters Second Slower Phase.

10.1% to and from Ireland). Approximately 12.5% of Etihad passengers come directly from or are discharged in the UAE.

These passenger statistics highlight that travel from Australia on UAE airlines is dominated by through traffic onto destinations such as the UK and Europe. Please see [Attachment A](#) for more detail.

Europe/United Kingdom

There is a strong competitive base in the Australia-Europe/UK market with the UAE providing an important hub for air travel to a number of European destinations. Over the past five years, the Europe/UK market has been dominated by Qantas, Emirates and Singapore Airlines. The table at [Attachment B](#) demonstrates relevant market shares of the main market participants (2005-2010). The growth of Emirates, Etihad and Cathay Pacific is worth contrasting with the performance of the Qantas Group and British Airways. The Department is currently negotiating a comprehensive air services agreement with the EU which would replace the 16 bilateral agreements that are currently in place. A comprehensive air services agreement with the EU would remove many, if not all, of the market access restrictions currently in place for Australian and European airlines.

In addition to air services arrangements with the UK and European countries, Australia also has liberal air services arrangements with many governments of intermediate destinations between Australia and UK/Europe. For example, airlines of Singapore have unlimited capacity between Australia and Singapore. Combined with the range and frequency of connections available from these intermediate points to destinations in UK/Europe, airlines of intermediate countries provide significant competition in the market.

These and other new services have been made possible through the continued liberalisation of our air services arrangements with our aviation partners. As barriers to entry are being removed, competition is increasing along with choice for the Australian consumer and international visitor. In excess of 30 airlines serve the Australia to UK/Europe market. Some, such as Qantas, Virgin Atlantic and Singapore Airlines operate their own services. Many European airlines operate to destinations in Asia and then either code share or interline with Asian carriers into Australia, often with arrangements made within airline alliances. For example, Lufthansa operates to Singapore and Bangkok and then code shares with its Star Alliance partners, Singapore Airlines and Thai Airways to destinations in Australia. These arrangements enable carriers to access the Australian market and gain the economies offered by hub and spoke type operations without actually operating services to Australia.

Proposed Alliance

It has been the nature of the aviation industry for airlines to enter into co-operative alliances or arrangements. Many major airlines around the world have joined one of the three major alliances: Oneworld, Star Alliance and Sky Team. Taken together, the three dominate world air traffic. Depending on the relevant agreements, alliances allow the partner airlines to co-operate in matters such as marketing, code sharing

arrangements, reciprocal frequent flyer programs and airline lounges. It should also be noted that some airlines, including Emirates Airline— a major player in the Australian-UK market—choose not to participate in any of the major alliances. The level of co-operation between carriers around the world ranges from simple interline agreements, through code share arrangements to greater levels of co-operation such as co-ordination of routes and prices.

The Aviation White Paper establishes an international aviation policy goal of an open and competitive international aviation market that serves the national interest by benefiting tourism, trade and consumers, allows Australian and overseas airlines to expand, and maintains a vibrant Australian-based aviation industry. This includes providing improved opportunities for Australian carriers to access international markets and increasing competition and choice for Australian foreign travellers on international routes to and from Australia. The expansion of air services, particularly by Australia airlines, into markets such as the UAE, Europe and the UK is consistent with this approach.

The Department welcomes the application made by Virgin Blue and Etihad and notes that the entry of V Australia onto the route will provide benefits to the Australian public and help support a competitive and sustainable Australian aviation industry capable of competing effectively internationally. The proposed alliance will help ensure the continued viability of V Australia's services to the UAE, and give V Australia the ability compete across a range of other markets, without the need for significant capital expenditure.

The Department views the entry of an Australian carrier to the globally significant Middle East market (with own aircraft services) as a very positive development for the Australian aviation industry, and doing so through a cooperative partnership with a Middle East-based carrier will help ensure the viability of that service. Similarly, the Department views the creation of a second Australian-based competitor in the UK/Europe market as a positive development; the Department notes it is unlikely that V Australia could commence viable European services without an alliance partner.

Thank you again for inviting the Department to provide a submission. I can be contacted on 02 6274 7739 should you wish to discuss this matter further or require any additional information.

Yours sincerely



 Stephen Borthwick
General Manager
Aviation Industry Policy
Aviation & Airports Division

22 October 2010

Attachment A: Origin-Destination of flights - UAE airlines

Emirates		Etihad	
Year ended June	Share of		Share of
OD Country	Total	OD Country	Total
United Kingdom	31.9%	United Kingdom	24.0%
United Arab Emirates	11.3%	United Arab Emirates	12.5%
Italy	8.0%	Ireland	10.1%
Germany	4.7%	Lebanon	7.0%
France	4.4%	Germany	4.7%
India	3.4%	France	4.4%
Greece	2.7%	Italy	2.8%
Switzerland	2.4%	Egypt	2.7%
Lebanon	2.3%	Saudi Arabia	2.6%
Saudi Arabia	2.1%	Greece	2.4%
Iran	1.4%	Turkey	2.1%
Turkey	1.2%	Belgium	1.7%
Egypt	1.2%	Jordan	1.1%
Malta	1.2%	Russian Federation	1.1%
United States of America	1.0%	Syria	1.1%
Pakistan	0.9%	Iran	1.1%
Austria	0.9%	Sweden	0.9%
South Africa	0.8%	Cyprus	0.9%
Ireland	0.8%	Spain	0.9%
Russian Federation	0.8%	Serbia	0.8%
Others	16.6%	Others	15.0%
Total	100.0%	Total	100.0%

Attachment B: Airline Market Share – Between Australia and Europe/UK

European Union Year Ended June 2010

Airline	Market Share					
	2005	2006	2007	2008	2009	2010
1 Qantas	31.6%	30.8%	31.9%	30.2%	29.2%	24.8%
2 Emirates	11.0%	14.1%	16.2%	16.8%	15.6%	18.9%
3 Singapore Airlines	15.1%	14.1%	14.8%	14.6%	14.9%	12.9%
4 Cathay Pacific Airways	4.5%	5.6%	5.4%	6.3%	7.5%	6.7%
5 Etihad Airways	0.0%	0.0%	0.1%	2.2%	3.3%	5.7%
6 Malaysia Airlines	8.1%	7.3%	6.4%	5.7%	4.8%	5.5%
7 British Airways	7.5%	6.6%	4.9%	4.8%	5.0%	4.6%
8 Thai Airways International	3.7%	3.1%	3.8%	4.7%	4.1%	4.0%
9 Jetstar International	0.0%	0.5%	2.0%	2.6%	3.0%	3.4%
10 Air New Zealand	2.3%	2.2%	2.1%	2.2%	2.1%	1.6%
11 Virgin Atlantic	0.5%	1.1%	1.8%	2.0%	1.9%	1.5%
12 Korean Air	0.6%	0.5%	0.7%	1.1%	1.4%	1.3%
13 Virgin Blue	0.6%	0.6%	0.7%	0.7%	1.1%	1.2%
14 Royal Brunei Airlines	1.1%	1.1%	1.1%	0.9%	1.0%	1.1%
15 Air Asia X	0.0%	0.0%	0.0%	0.0%	0.3%	1.0%
16 Qatar Airways	0.0%	0.0%	0.0%	0.0%	0.0%	0.9%
17 Air China	0.1%	0.1%	0.1%	0.1%	0.3%	0.7%
18 Asiana Airlines	0.2%	0.1%	0.1%	0.3%	0.5%	0.5%
19 Air Pacific	0.4%	0.3%	0.4%	0.4%	0.5%	0.5%
20 China Airlines	0.3%	0.2%	0.2%	0.4%	0.4%	0.4%
Others	12.5%	11.8%	7.2%	4.0%	3.3%	2.9%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

United Kingdom Year Ended June 2010

Airline	Market Share					
	2005	2006	2007	2008	2009	2010
1 Qantas	32.3%	32.1%	33.2%	30.2%	29.6%	25.6%
2 Emirates	12.5%	15.6%	17.8%	18.3%	17.8%	20.2%
3 Singapore Airlines	14.6%	13.4%	14.4%	14.3%	14.5%	12.7%
4 Cathay Pacific Airways	4.0%	5.0%	4.6%	5.8%	6.4%	6.3%
5 British Airways	9.2%	8.0%	6.1%	6.0%	6.2%	5.9%
6 Malaysia Airlines	8.6%	7.5%	5.8%	4.8%	4.4%	5.5%
7 Etihad Airways	0.0%	0.0%	0.1%	2.2%	2.9%	4.9%
8 Jetstar International	0.0%	0.5%	1.9%	2.3%	2.6%	2.7%
9 Virgin Atlantic	0.9%	1.8%	2.9%	3.2%	3.0%	2.4%
10 Thai Airways International	1.8%	1.5%	2.1%	2.6%	2.0%	2.3%
11 Royal Brunei Airlines	1.5%	1.5%	1.6%	1.5%	1.6%	1.9%
12 Air New Zealand	2.8%	2.6%	2.6%	2.7%	2.5%	1.7%
13 Air Asia X	0.0%	0.0%	0.0%	0.0%	0.3%	1.2%
14 Korean Air	0.5%	0.4%	0.6%	0.9%	1.0%	1.1%
15 Virgin Blue	0.6%	0.6%	0.6%	0.6%	1.0%	1.1%
16 Qatar Airways	0.0%	0.0%	0.0%	0.0%	0.0%	0.8%
17 Asiana Airlines	0.1%	0.0%	0.1%	0.3%	0.6%	0.6%
18 Air Pacific	0.4%	0.3%	0.4%	0.4%	0.4%	0.4%
19 Air China	0.1%	0.1%	0.1%	0.1%	0.2%	0.3%
20 JALWays	0.0%	0.0%	0.2%	0.5%	0.3%	0.3%
Others	10.0%	9.0%	4.8%	3.1%	2.5%	2.1%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%