



Australian  
Competition &  
Consumer  
Commission

Our Ref: C2010/452  
Contact Officer: Teresa Nowak  
Contact Phone: 02 6243 1239

GPO Box 3131  
Canberra ACT 2601  
23 Marcus Clarke Street  
Canberra ACT 2601  
tel: (02) 6243 1111  
fax: (02) 6243 1199  
www.accc.gov.au

22 October 2010

Mr Luke Woodward  
Partner  
Gilbert + Tobin  
GPO Box 3810  
SYDNEY NSW 2001

by e-mail: [LWoodward@gtlaw.com.au](mailto:LWoodward@gtlaw.com.au)

Dear Mr Woodward

**Authorisation Applications A91227 & A91228 submitted by Virgin Blue Airlines Pty Ltd  
& Ors – request for further information**

I refer to the above applications for authorisation lodged with the Australian Competition and Consumer Commission (the ACCC) on 6 May 2010 and to your submission of 11 October 2010.

In order to assist the ACCC's assessment of the applications under the *Trade Practices Act 1974*, the ACCC seeks further clarification and information from the applicants on the issues set out in the attachment to this letter.

In the interests of progressing the ACCC's timely consideration of this matter, I would appreciate your response to the issues raised in the attached by no later than **close of business 5 November 2010.**

A copy of this letter, without questions 9, 10, 12, 13, 14 and 15 of the attachment, will be placed on the ACCC public register.

If you wish to discuss any aspect of this matter, please do not hesitate to contact me on 02 6243 4925 or Teresa Nowak on 02 6243 1239.

Yours sincerely

Darrell Channing  
Director  
Adjudication Branch

**FOLLOWUP QUESTIONS FOR APPLICANTS ON THEIR SUBMISSION IN  
RESPONSE TO THE ACCC'S DRAFT DETERMINATION**

**GENERAL**

1. Please provide empirical studies or evidence in support of the Applicants claim at page 53 that trans-Tasman demand is highly price elastic. How does the price elasticity of demand differ as between leisure and business passengers?
2. In relation to Figure 17 (Tasman routes by market size), please identify data source and indicate time period that data relates to.
3. Please provide evidence of the claim that Australians first choose whether to holiday overseas or domestically and then choose destination (p. 36).
4. Please indicate data source and relevant time period for Applicant's claims concerning tourism spend (p. 36).
5. Please indicate time period of data presented in Annexure H (Connecting traffic by state).

Please confirm data source and time period for Figures 2 and 3 in submission

Please provide a copy of the complete Colmar Brunton May 2010 survey results and a copy of the questions that Colmar Brunton put to respondents.

8. Please provide a copy of the complete Roy Morgan research survey results, which the Applicants refer to at footnote 13. Please also provide a copy of the questions that Roy Morgan put to respondents.

**EXCLUDED FROM  
PUBLIC REGISTER**

11. Please provide the data on capacities on domestic New Zealand routes that substantiate the comment on p. 47 that “the level of competition has intensified on domestic New Zealand routes, with Jetstar and Air New Zealand announcing capacity deployments over and above that previously operated by Virgin Blue”.

12.

13.

14.

**EXCLUDED FROM  
PUBLIC REGISTER**

15.

**EXCLUDED FROM  
PUBLIC REGISTER**

**PROPOSED CONDITIONS**

1. Please provide evidence of the relationship between capacity, price and service quality in airline markets.
2. Please provide a general explanation of how the Applicants' intend that the proposed conditions would in practice work to limit the Applicants' ability to unilaterally raise fares on any of the identified routes at any time during the proposed 5 year period, given actual demand conditions prevailing at that time.
3. Please clarify the meaning of the following sentence on p. 68 of the submission:

*Consistent with the principle that this condition is proposed in response to the ACCC conclusion that competition will be reduced on these sectors, the growth figure takes account of total capacity growth on the nominated sectors above the 10% and 15% benchmarks, such that the Applicants are not required to maintain seat capacity growth on the nominated sectors above benchmark growth for those sectors, where competitive have added capacity greater than the benchmark growth.*

This sentence, together with the proposed definitions of third and fifth year Alliance seat capacity in Annexure R, appears to provide for the relaxing of Alliance capacity obligations in the event that actual market growth exceeds the growth factor that the Applicants have chosen to apply to base industry capacity. Is this interpretation correct?

4. To assist the ACCC to consider whether the year to 31 October 2010 represents an appropriate base year, please provide in an excel spreadsheet time series annual capacity data for the year to 31 October over the period 2002 to 2010, for each of the 6 identified routes and the trans Tasman as a whole. Please identify the Applicants' annual capacity and industry annual capacity.
5. Please provide details of the Applicants' calculations to adjust base year capacity to incorporate Air New Zealand's reconfiguration to remove business class seats.

Please provide in an excel spreadsheet time series capacity utilisation (load factors) data for each of the 6 identified routes over the period since January 2004. Average weekly load factor data by route for each Applicant will suffice.